

ORIGINAL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
JOAQUIN FRANQUIIIII, Administrator of the ESTATE
OF JACK FRANQUI IV,

Plaintiff,

-against-

THE COUNTY OF SUFFOLK, SUFFOLK COUNTY
POLICE DEPARTMENT, POLICE OFFICER
KAREN GREINIA, POLICE OFFICERS JOHN AND
JANE DOES 1-10,

Defendants.
-----X

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT

★ OCT 29 2013

LONG ISLAND OFFICE
Docket No.:

CV - 13 5943

COMPLAINT

SEYBERT, J

WALL, M.

COMPLAINT

Plaintiff, JOAQUIN FRANQUI III, Administrator of the Estate of JACK FRANQUI IV,
by and through his attorney, ANTHONY M. GRANDINETTE, ESQ., states as follows:

NATURE OF THE ACTION

1. This action arises from Suffolk County police officers' unlawful arrest, search, and seizure of JACK FRANQUI IV, their subsequent malicious and shameful physical abuse of JACK FRANQUI IV during that process, including the excessive use of both physical force and the unwarranted threatened use of deadly physical force, their subsequent deliberate indifference to his health, safety, and welfare, their failure to provide adequate medical care, their deliberate indifference in the proper supervision of JACK FRANQUI IV while in police custody, and the subsequent conspiracy to cover up their unlawful actions. As a proximate cause of their actions, and inaction where an affirmative duty to act was required, JACK FRANQUI IV died by hanging, while surrounded by countless law enforcement personnel in a Seventh Precinct holding cell, at the tender age of 26.
2. This action seeks compensation for the unconstitutional and tortious conduct by Suffolk County police officers and their supervisors who were the proximate cause of JACK FRANQUI IV's death and needless suffering the day he was entrusted to their care; the actions by the officers who unlawfully arrested and physically abused JACK FRANQUI IV, the actions by the officers who failed to provide JACK FRANQUI IV with adequate medical care and proper supervision, the actions by the officers who ignored JACK FRANQUI IV's repeated pleas for medical assistance, his threats to end his life if he did not receive medical treatment, which went unjustifiably ignored for hours, and the

subsequent acts by the officers who lied about the events that occurred that day and fabricated evidence to conceal their unlawful conduct, all in an effort to avoid criminal, civil, and administrative sanctions.

JURISDICTION

3. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, the First, Fourth, and Fourteenth Amendments to the United States Constitution, Due Process, and the laws of the State of New York.
4. Jurisdiction is founded upon 28 U.S.C. §§ 1331, 1343, and 2202.
5. Plaintiff further invokes the supplemental jurisdiction of this Court to adjudicate pendant state law claims pursuant to 28 U.S.C. § 1367.
6. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b).

PARTIES

7. JOAQUIN FRANQUI III (hereinafter “JACK SR.”), father of JACK FRANQUI IV, is a resident of Suffolk County.
8. Plaintiff, JACK SR., as Administrator of the Estate of JACK FRANQUI IV (hereinafter “JACK JR.”), seeks relief on behalf of the Estate of JACK JR.
9. Defendant, Suffolk County, is a county within the State of New York and the public employer of the Suffolk County Police Department, individually named police officers, and police officers John and Jane Does 1-10 named as defendants in this action.
10. Defendant, Suffolk County Police Department, is a County agency, organized under and existing and operating by virtue of the laws of the State of New York and the County of Suffolk.
11. In addition to the facts alleged in the following paragraphs, defendants Police Officer Karen Grenia (hereinafter “GRENIA”) and John and Jane Does 1-10 are all sued in their individual and official capacities and all acted within the scope of their employment and under color of state law, to wit, under color of the statutes, ordinances, regulations, policies, customs, and usage of the State of New York and/or the County of Suffolk.

NOTICE OF CLAIM

12. Plaintiff filed a timely notice of claim against the County of Suffolk and the Suffolk County Police Department in compliance with General Municipal Law § 50. *See* Exhibit 'A' annexed hereto.
13. More than thirty days have elapsed since service of said Notice and the County has failed to pay or adjust the claim.
14. § 50-h examinations of JACK SR. and JOHN BURKE, an eye witness to the events, were held in advance of commencing this action.
15. This action has been commenced within one year and ninety days after the happening of the events upon which these claims arise.

FACTUAL AND GENERAL ALLEGATIONS

16. On January 23, 2013, at approximately 10:45 a.m., JACK JR., age 26, stopped by his friend, Simon Earl's (hereinafter "SIMON") home, for the purpose of showing SIMON the car he had just purchased; a 1972 yellow Cadillac El Dorado.
17. SIMON resides with his parents, Nicholas and Anne Earl, at 6 Cordwood Path, Shoreham, New York. 6 Cordwood Path is in a residential neighborhood in East Shoreham, New York, called Sound View Estates, which is located in Suffolk County.
18. At approximately 11:00 a.m., JACK JR. was talking and socializing with his friend SIMON, directly in front of SIMON's home. Excited about his new purchase, JACK JR. entered the car and popped the hood to show SIMON the engine; typical behavior young men have engaged in since the invention of motor vehicles. It was a beautiful winter day, and the two friends were enjoying each other's company.
19. JACK JR. and SIMON were socializing in a peaceful manner and for a lawful purpose, and JACK JR.'s car was legally parked, parallel to the curb, directly in front of SIMON's home.
20. Nothing under these factual circumstances provided reasonable cause to believe that either JACK JR. or SIMON had committed a crime, or were about to commit a crime. Additionally, no warrant had been issued for either young man's arrest.
21. Notwithstanding the foregoing, while SIMON was standing in front of his home, in broad daylight, looking under the hood of his friend's car, he observed a marked Suffolk County radio motor patrol vehicle (hereinafter "RMP") traveling in his direction on Cordwood Path. The RMP accelerated, stopping abruptly at a 45 degree angle in the roadway in front of SIMON's home.

22. Defendant GRENIA was operating the RMP, without a partner.
23. After parking her vehicle at a 45 degree angle blocking the roadway, GRENIA exited her vehicle with her gun drawn. Prior to making any inquiry of either JACK JR. or SIMON, GRENIA pointed her gun at SIMON, threatening him at gunpoint, shouting out orders for SIMON to get down on his knees, raise his arms, and not move.
24. SIMON complied, kneeling in the street directly in front of his home, with his hands in the air, in broad daylight, and in response to his attempts to orally communicate, was yelled at by GRENIA to shut up and not move.
25. With SIMON kneeling on the street, arms raised in the air, GRENIA turned her weapon upon JACK JR., who at this time was seated in the driver's seat of his yellow Cadillac. GRENIA began screaming at JACK JR., ordering him to place his hands on the steering wheel were she could she them, not to move, or alternatively she threatened to shoot him.
26. GRENIA's arrest report indicates she was responding to a 911 call for a suspicious vehicle in the area, *see* Exhibit 'B,' which may have warranted her approach and reasonable inquiry for license, registration and the purpose of JACK JR. and SIMON's presence in the area. Even assuming that GRENIA mistakenly perceived a potential crime in progress or a dangerous situation afoot, she could have easily called for and waited on backup to arrive to avoid creating an unnecessarily dangerous and hostile situation.
27. Under the existing circumstances, GRENIA's conduct, specifically her threatened use of deadly physical force against JACK JR., was objectively unreasonable, unjustified, contrary to proper police procedure, unconstitutional, and created an unnecessary risk to the health, safety, and welfare of those involved. Absolutely no exigent circumstances existed at the time GRENIA approached with her weapon drawn to warrant the threatened use of deadly physical force.
28. Shortly thereafter, approximately four other marked police vehicles pulled up in front of the Earl residence. JACK JR. yelled out to the police officers who were quickly surrounding him that he had no intention of resisting and that they should not shoot him or his dog, a miniature Doberman Pinscher, *see* Exhibit 'C' annexed hereto, that was in the car with him.
29. Defendant police officers, without having reasonable suspicion or probable cause, handcuffed SIMON, unlawfully searched his person and emptied his pockets without having obtained a warrant or consent to do so, and placed the items on the roof of a marked police vehicle.

30. Uniformed defendant police officers repeatedly questioned SIMON, demanding to know “where are the drugs?!” In response, SIMON told the officers that there were no drugs, either on his person or in his possession. Despite SIMON’s repeated attempts to tell the police officers that there were no drugs and that he and his friend were socializing in front of his own home, he was ignored by police who threatened to strip-search SIMON right then and there, on the street in front of his own home, in broad daylight, if he did not tell them where the drugs they claimed he possessed, were located.
31. SIMON, still in handcuffs and not free to leave, in utter disbelief of what was happening, was then placed in the back of a marked police vehicle which was parked just a few feet behind JACK JR.’s yellow Cadillac.
32. GRENIA continued to act irrationally under the then-existing circumstances, violated proper police procedure, and continued to display excessive use of non-deadly physical force by brandishing her gun at JACK JR., and screaming at and ordering him to exit his vehicle.
33. In fear for his health, safety, and welfare, and in an attempt to fully comply with GRENIA’s orders, JACK JR. opened his car door and began to exit his vehicle.
34. Notwithstanding the fact that JACK JR. was in complete compliance with the police directives and had made no effort to resist or engage in any hostile behavior, either verbally or physically, several uniformed police officers pulled JACK JR. from his car, and acting with malicious intent, engaged in acts constituting the unreasonable and excessive use of physical force; JACK JR. was thrown to the ground, beaten and struck by the defendants, over various parts of his body, despite the fact that he was lying prone on the ground and not resisting. These acts were in violation of police policy and procedure, were unlawful and unnecessary, and caused JACK JR. unnecessary and unwarranted physical pain and mental anguish.
35. Defendant GRENIA pressed her knee against JACK JR.’s back as he lay injured on the ground, and subsequently handcuffed and placed him in the back of a marked police vehicle without probable cause to arrest.
36. Defendants’ actions were unreasonable, and constituted the excessive use of physical force under the then-existing circumstances, assault and battery, and an unlawful arrest and seizure of JACK JR., all of which took place in the absence of reasonable suspicion or probable cause to arrest, in violation of the United States and New York State Constitutions and laws.
37. While JACK JR. was taken to the marked police vehicle, SIMON, who had been handcuffed and placed in the back of another police vehicle, noticed that the left side of JACK JR.’s face was bruised and bleeding. Prior to the police arriving at the Earl residence at approximately 11:00 am, JACK JR. did not have any visible bruises or blood on either his face or other visually exposed portions of his body.

38. The day after JACK JR.'s death, *see* Exhibit 'D' annexed hereto, January 24, 2013, an autopsy was performed by the Suffolk County Office of the Medical Examiner which resulted in findings that JACK JR. had sustained "blunt impact injuries" to his head, torso, and upper and lower extremities. *See* Exhibits 'E' and 'F' annexed hereto. Specifically, the Medical Examiner's report described some of the injuries JACK JR. sustained as follows:

Head: A 4 x 1-1/4" abrasion, with adherent clotted blood, is on the right cheek. Six, 1/8" abrasions are on the helix of the left ear.

On a subsequent internal examination, there is a 1" left parietal subscapular hemorrhage; and two, 1" and 1-1/2" right parietal subscapular hemorrhages. . . .

Torso: A 2 x 1-1/2" cluster of linear abrasions is on the right upper back. . . .

On subsequent internal examination, there is a 1 x 1/2" subcutaneous hemorrhage of the mid upper back; and a 1 x 1/2" subcutaneous hemorrhage in the left upper back. . . .

Upper Extremities: A 1/4", blue contusion is on the posterior right forearm. A 1/2", blue contusion is on the anterior left arm. Five, 1/8", pale, red and scabbed abrasions are on the posterior left arm, elbow and forearm. . . .

Lower Extremities: A 1/2" red-brown contusion is on the medial right foot. A 5", curvilinear, red contusion is on the posterior right thigh. A 2", yellow to red-brown contusion is on the posterior right leg. Nine, 1/16" to 1-1/2" abrasions are on the left knee. A 1-1/2", faint blue contusion; and a 1/8" abrasion are on the medial left leg. Three, 1", faint blue contusions are on the posteromedial left leg. A 1/2", yellow-orange contusion is on the lateral left thigh. A 1/16" abrasion is on the medial left foot. . . .

See Exhibit 'E.'

39. Significantly, JACK JR. sustained physical injuries to both sides of his face, which, despite the use of makeup, were clearly visible at his wake. *See* Exhibit 'F.'
40. JACK JR. suffered these injuries as a direct and proximate result of defendants' illegal and unconstitutional use of excessive force and cruel and inhumane conduct.
41. None of the foregoing physical acts by the defendants were performed for the lawful purpose of restoring order. Additionally, when balanced with the severity of the crimes charged (misdemeanor offenses), the lack of any immediate threat to the safety of the

defendants (all of whom were armed and significantly outnumbered JACK JR.), coupled with the fact that JACK JR. did not attempt to resist arrest (JACK JR. was lying face down on the pavement), establish that the defendants' actions were unreasonable.

**EVENTS AT THE SEVENTH PRECINCT FOLLOWING JACK JR.'S
UNLAWFUL ARREST**

42. Subsequent to his unlawful arrest, JACK JR. was taken to the Seventh Precinct in Suffolk County where he was processed, and formally charged with the following crimes: NY VTL § 1192, operating a motor vehicle while under the influence of alcohol or drugs; NY PL § 195.05, obstructing government administration in the second degree; and NY PL § 205.30, resisting arrest.
43. All of these alleged charges constituted JACK JR.'s false arrest, and the subsequent fabricated police paperwork prepared in support of his illegal arrest constituted the malicious prosecution of his person and the denial of his right to due process of law.
44. For example, JACK JR. was charged with obstructing governmental administration for allegedly "sicking" his miniature Doberman Pincher on GRECIA, for resisting arrest despite being fully cooperative with police at the scene, and for operating a motor vehicle under the influence of drugs, *see* Exhibit 'B,' all false charges to cover up the defendants' gross and illegal misconduct. These fabricated police reports and sworn statements were made with the knowledge of their false and misleading content, and with the mutual understanding between the defendants that they would collectively lie in order to maliciously prosecute JACK JR., and cover up the true facts to avoid criminal, civil, and administrative sanctions.
45. Subsequent to his processing, JACK JR. was placed in the holding cell area of the Seventh Precinct. Specifically, in a holding cell adjacent to an individual named JOHN BURKE (hereinafter "BURKE"), who had been arrested by Detectives earlier that day. BURKE was unknown to JACK JR. prior to that time. *See* Exhibit 'G' annexed hereto.
46. The Seventh Precinct holding cell in which JACK JR. was placed is subject to New York State law which governs the confinement of pre-trial detainees, including but not limited to those proscribed by the New York State Department of Corrections, and the Suffolk County Police Department. Those applicable rules and regulations were violated by the defendants in this case resulting in JACK JR.'s unnecessary death.
47. On January 23, 2013, during the relevant time that JACK JR. was housed therein, the conditions inside the holding cell were inhumane; the temperature was bitterly cold, and JACK JR. was knowingly placed therein with nothing but the tee-shirt, jeans, and socks that he was permitted to keep.

48. JACK JR. was eventually given a small piece of a thin blanket to help keep himself warm. It was tossed to him by BURKE, who did so as an act of kindness—sharing his small thin blanket with JACK JR.
49. BURKE subsequently described the conditions of the Seventh Precinct holding cell area, as follows:

I cannot stress how cold it was in the holding cell area. It was actually inhumane!! I remember being curled up on a bench, shivering, holding on to a small blanket that was like a piece of cardboard issued to me. Jack asked for a piece of my blanket, which I gave him. You could see your breath in the air.

See Exhibit 'H' annexed hereto.

50. Defendants, under color of law, inflicted unnecessary and wanton pain to JACK JR. due to their intentional conduct and/or deliberate indifference to JACK JR.'s health, safety, and welfare by maintaining a holding cell with unreasonably low temperatures, placing him in that holding cell, and failing to provide adequate means for JACK JR. to keep himself warm. The holding cell area was physically separated from the rest of the precinct by a door. No police officers were in the holding cell area itself, but were on the opposite side of the doorway, in an area which was heated. The defendants were also adequately dressed for the climate.
51. After JACK JR. was placed in the holding cell he yelled out to the defendants, over the course of hours, stating directly and unequivocally that he needed medical attention and begging to be taken to a hospital. *See Exhibit 'G.'*
52. JACK JR.'s cries for help were heard, but ignored by all defendants. *See Exhibit 'F.'*
53. However, early on, one officer did enter the holding cell area, asking JACK JR. why he was screaming. JACK JR. lowered his voice and politely and respectfully informed him that he needed to go to a hospital for medical attention. In an apparent attempt to dissuade him from seeking medical help, the officer told JACK JR. that even if the defendants took JACK JR. to a hospital, they would have to bring him right back to the precinct. Still desiring medical care, JACK JR. asked the officer if he could speak to the officer's supervisor. The officer responded words to the effect of "okay I will get him." Unfortunately, neither the officer nor his supervisor ever returned. *See Exhibit 'G.'*
54. After some time passed and no one came to speak to JACK JR., he began yelling and pleading once again for some medical assistance. Specifically, JACK JR. repeatedly yelled out that he needed medical attention, and that if he did not receive medical attention, he would be leaving the holding cell in a "body bag." *See Exhibit 'G.'*

55. Despite the doorway separating the holding cells from the rest of the precinct, the officers outside the holding cell area were able to hear JACK JR.'s pleas for medical attention because BURKE, who was being held in a cell just one cell away from JACK JR., was able to hear the defendants conversing in normal conversational levels. *See* Exhibit 'G.'
56. As more time passed and JACK JR.'s persistent cries for help were ignored, he told BURKE that BURKE should tell his father, JACK SR., that JACK JR. did not have drugs on him at the time he was arrested, that he did not let his dog out of his car to attack the police officers who were present at the scene, that SIMON knew the truth about what had occurred earlier that day, and that he could not go back to jail. JACK JR. requested that BURKE memorize his father's telephone number, and eventually told BURKE that he was "going to hang up." *See* Exhibit 'G.'
57. JACK JR. desperately tried to get the police officers' attention. At one point, he stuck his head in the toilet bowl and banged his head against the holding cell wall, all the while screaming and pleading for medical assistance, yelling that he would be leaving in a "body bag" if he was not given treatment. JACK JR. did this knowing that video cameras were positioned directly across from the individual holding cells for the specific purpose of monitoring detainees' conduct, and therefore, in large part, to prevent exactly what happened in this case—an inmate suicide. No officer responded to his cries for help. *See* Exhibit 'G.'
58. JACK JR. then took off his t-shirt and tied it around his cell bars fashioning a noose. At that point two officers entered the holding cell area and cut down the t-shirt to prevent JACK JR. from hanging himself. *See* Exhibit 'G.'
59. Notwithstanding the foregoing, the defendant officers did not offer JACK JR. any assistance or medical treatment. Rather, they left the holding cell area immediately after cutting down the t-shirt. They left JACK JR. with no way of keeping himself warm other than with his jeans and socks, despite the fact that it was freezing in the cell and JACK JR.'s hair was now visually wet from having put his head in the toilet bowl. *See* Exhibit 'G.'
60. After the officers exited the holding cell area, JACK JR. began crying, stating that he could not go back to jail. JACK JR. asked BURKE to repeat his father's phone number to him, and told BURKE to tell JACK JR.'s father that he loved him. *See* Exhibit 'G.'
61. JACK JR. continuously screamed, yelled, and pleaded for medical assistance, telling the defendants that he would be leaving in a "body bag" if he was not given treatment. His desperate and repeated cries for medical help, display of protracted irrational behaviors, persistent verbal threats of suicide, and affirmative physical acts to carry out those threats of suicide, were all ignored by the defendants. Astonishingly and contrary to all rules, regulations, procedures, laws, and moral decency, JACK JR. was left alone to eventually carry out his threats, and kill himself by means of strangulation, by hanging himself with his own blue jeans affixed to his holding cell bars. *See* Exhibit 'G.'

62. Sometime later JACK JR. took off his blue jeans. Notwithstanding the fact that he stood in his holding cell in his underwear, no defendant took affirmative action to help JACK JR. *See* Exhibit 'G.'
63. Next, JACK JR. affixed his own jeans to the holding cell bars. Notwithstanding the fact that he stood in his holding cell in his underwear with his jeans tied to the cell bars, no defendant took affirmative action to help JACK JR. *See* Exhibit 'G.'
64. Next, JACK JR. fashioned a noose from his jeans which were affixed to the holding cell bars. Notwithstanding the fact that he stood in his holding cell in his underwear, jeans affixed to the cell bars tied like a noose, no defendant took affirmative action to help JACK JR. *See* Exhibit 'G.'
65. Next, JACK JR. placed his head and neck inside the noose fashioned from his jeans, which were affixed to the holding cell bars. Notwithstanding the fact that he stood in his holding cell in his underwear, jeans affixed to the cell bars with his head inside the fashioned noose, no defendant took affirmative action to help JACK JR. *See* Exhibit 'G.'
66. Next, JACK JR., as he repeatedly threatened to do if not afforded medical assistance by shouting to the defendants over the course of hours, hung himself from the noose, fashioned from his blue jeans which he had affixed to his holding cell bars. Notwithstanding the fact that JACK JR. was hanging, with his head inside the noose fashioned from his own blue jeans which he had affixed to the cell bars, virtually naked, clad only in his underwear, no defendant took affirmative action to help JACK JR. *See* Exhibit 'G.'
67. BURKE, hearing gasping sounds coming from JACK JR.'s cell, screamed out to the guards for help. However, no one responded for several minutes. *See* Exhibit 'G.'
68. Before officers finally entered the holding cell area, BURKE heard one officer ask another if he had a knife on him, suggesting that the defendants finally looked at their monitor, taking notice of JACK JR. hanging in his cell. *See* Exhibit 'G.'
69. After the defendant officers did finally approach JACK JR. and removed his body from the noose, BURKE heard one officer direct another to check for a pulse, and that officer responded that there was none. *See* Exhibit 'G.'
70. Defendants knew or should have known that JACK JR. was clearly suicidal and a danger to himself. Defendants knew or should have known that:
 - a. JACK JR. repeatedly yelled that he would be leaving the holding cell in a body bag if he did not receive medical assistance,
 - b. JACK JR. actually attempted to hang himself with his t-shirt prior to hanging himself with his jeans, and

- c. JACK JR. had been acting irrationally for hours while in the defendants' direct presence including but not limited to verbal threats of suicide, physical acts in furtherance of suicide, irrational physical acts such as sticking his head in the toilet bowl, banging his head against the wall, and disrobing, amongst other evidence warranting medical assistance, all of which occurred while JACK JR. was in defendants' custody during which time they were charged with the responsibility of his care.

- 71. Defendants individual and collectively failed to provide JACK JR. with the minimal standard of care proscribed by law for a detainee in custody within the confines of a holding cell within the State of New York. As a direct result of their failure to provide JACK JR. with the minimum standard of care required, their failure to comply with rules, regulations, and laws, their failure to act, and their deliberate inaction when a duty to act existed, the defendants herein were the proximate cause of JACK JR.'s death.
- 72. Following JACK JR.'s death, the case was investigated by the Suffolk County Homicide Bureau. That same day, BURKE was interviewed by detectives wherein he conveyed his observations and account of the events.
- 73. BURKE's statement was written by said detectives to ensure the detectives' control over the precise language used therein. By way of example of controlling the language within "BURKE's" written statement (written by Suffolk Homicide Detective Ciccotto), Ciccotto cleverly crafts the following paragraph:

The guy [JACK JR.] was yelling that he needed medical assistance. He was telling me that he was going to hang himself.

See Exhibit 'I' annexed hereto.

- 74. By way of contrast, in all BURKE's other statements and sworn testimony, BURKE makes it clear that JACK JR. told the *defendant officers* that they would be taking him out in a body bag if he did not receive medical treatment—over the course of hours. *See Exhibits 'G' and 'H.'* JACK JR.'s statements about suicide were not limited to conversations between himself and BURKE. To the contrary, the defendants were all on notice of JACK JR.'s state of mind.
- 75. Notwithstanding the foregoing, BURKE, on the date of JACK JR.'s death conveyed to the Suffolk County Homicide Squad that JACK JR. had requested medical assistance, threatened suicide, had taken physical steps to hang himself prior to actually doing so, and that the defendants herein assigned to the Seventh Precinct had knowledge thereof. *See Exhibit 'I.'*
- 76. Notwithstanding these facts, in multiple newspaper articles describing what happened in the Seventh Precinct holding cell on January 23, 2013, Lieutenant Fitzpatrick, Commander of the Suffolk County Police Department Homicide Squad, intentionally misled the media about what took place—both at the scene of JACK JR.'s arrest and at

the Seventh Precinct. As to the facts which preceded JACK JR.'s death at the Seventh Precinct, Lieutenant Fitzpatrick was quoted by several different papers that JACK JR. was calm and "appeared at ease with the police officers," and that "[t]here was no indication he was suicidal." *See* Exhibit 'J' annexed hereto.

77. Defendants, under color of law, deprived JACK JR. of his constitutional right to medical treatment and inflicted unnecessary and wanton pain to JACK JR. due to their intentional conduct and/or deliberate indifference to JACK JR.'s medical needs despite his continuous desperate pleas over the span of several hours for medical assistance.
78. The rules governing the maintenance of holding facilities impose an affirmative duty upon officers maintaining such facilities to periodically check on the status and wellbeing of detainees being held in their care and custody and to provide them with medical care when necessary.
79. Defendants failed to monitor JACK JR.'s status and wellbeing and failed to provide him with the minimum standard of medical care proscribed by laws, rules, regulations, and national, State, and local standards for health services in jails.

CRUEL AND UNUSUAL TREATMENT

80. By their conduct, defendants, under color of law, inflicted unnecessary and wanton pain to JACK JR. due to their intentional malicious conduct to JACK JR.'s health, safety, and welfare while he was being placed under arrest, given the severity of the crimes charged, the lack of any real danger posed to the officers at the scene, and the fact that he was not resisting arrest when the defendants repeatedly beat and struck him as he lay prone on the ground.
81. By their conduct, defendants, under color of law, inflicted unnecessary and wanton pain to JACK JR. due to their intentional malicious conduct to JACK JR.'s health, safety, and welfare by maintaining a holding cell with unreasonably low temperatures, placing him in that holding cell in nothing more than a tee shirt, and failing to provide adequate means for JACK JR. to keep himself warm.
82. By their conduct, defendants, under color of law, inflicted unnecessary and wanton pain to JACK JR. due to their intentional malicious conduct to JACK JR.'s health, safety, and welfare by their intentional failure to provide JACK JR. with medical care despite his repeated cries for medical assistance and his threat to hang himself, and by ignoring his irrational physical acts while in the holding cell as well as his prior physical acts in furtherance of a suicide attempt.
83. By engaging in the aforementioned conduct, independently and collectively, defendants, under color of law, deprived JACK JR. of his constitutional right to be free from cruel and unusual treatment as a person in their custody, in violation of the United States and New York State Constitutions and laws.

84. The defendants' actions were objectively of sufficient seriousness such that JACK JR. was denied the minimal civilized measure of life's necessities, and the defendants' possessed a sufficiently culpable state of mind associated with the unnecessary and wanton infliction of pain.

**DEFENDANTS' FAILURE TO INTERCEDE, TO PERFORM THEIR DUTIES AS
REQUIRED BY LAW, AND THEIR FABRICATION AND CONCEALING OF
EVIDENCE FROM INVESTIGATING STATE AND LOCAL AUTHORITIES TO AVOID
ADMINISTRATIVE, CIVIL, AND CRIMINAL SANCTIONS WHICH OTHERWISE
WOULD FOLLOW FROM THE MISCONDUCT**

85. The rules governing the actions of police officers impose an affirmative duty to intercede and prevent crimes and other misconduct committed by other police officers.
86. The rules governing the actions of police officers impose an affirmative duty to report such crimes and other misconduct whenever they become aware of it.
87. The rules governing the actions of police officers impose an affirmative duty to intercede when it is known that excessive force has been used.
88. The rules governing the actions of police officers impose an affirmative duty to intercede if medical care is being delayed or denied to a detainee who is suffering from an illness or injury.
89. The rules governing the actions of police officers impose an affirmative duty to intercede to prevent cruel and unusual treatment.
90. Defendants each had an opportunity to intercede on JACK JR.'s behalf to ensure that JACK JR. was not the victim of excessive physical force, unjustified threatened use of deadly physical force, false arrest, cruel and unusual treatment, and they each had an opportunity to intercede and ensure that he was provided adequate medical assistance—all clearly established statutory and constitutional rights of which a reasonable person would have known—yet failed to do so, knowing that their fellow officers' conduct did violate those rights guaranteed to JACK JR.
91. Defendants each failed to intervene or report the above mentioned conduct when they became aware of it.
92. Despite oral and physical acts placing defendants on notice of JACK JR.'s strong likelihood of committing suicide, as well as JACK JR.'s numerous and continuous pleas for medical care, defendants ignored his medical needs.

93. Defendants failing to remove JACK JR. to a hospital or continuously monitor his behavior constituted deliberate indifference, an egregious deviation from acceptable administrative, legislative, and departmental rules and regulations and state and federal laws, regulations, and guidelines designed to ensure the health, safety, and welfare of detainees placed in holding cells within the State of New York.
94. Defendants failed to perform duties inherent in the nature of their office.
95. The individual defendants, under color of law, conspired with each other, reached a mutual understanding, and acted to undertake a course of conduct to injure, oppress, threaten, and intimidate JACK JR. and SIMON, a witness to the initial police misconduct, in the free exercise and enjoyment of the rights, privileges, and due process of the law secured to them by the United States and New York State Constitutions and laws, including the right to be free from the intentional use of unreasonable force; to be free from cruel and unusual treatment as one in the custody of the defendants; to be free from the denial of adequate medical attention; to be free from unnecessary and wanton infliction of pain; and to not be deprived of life without due process of law.
96. Thereafter, defendants fabricated evidence of what had occurred in an attempt to justify their unlawful and egregious conduct and avoid administrative, civil, and criminal sanctions. For example, defendants created false police reports, documents, and statements, both oral and written.
97. Members of the Suffolk County Police Department interviewed defendants who intentionally misrepresented and withheld material facts in an effort to falsely report the true nature of the events and to avoid and shield members of the Department from civil, criminal, and administrative sanctions for their acts and omissions which lead to JACK JR.'s unnecessary death.
98. Defendants lied to State investigators and fabricated and altered physical evidence and written incident reports to conceal wrongdoing to avoid and shield members of the Department from civil, criminal, and administrative sanctions for their acts and omissions which lead to JACK JR.'s unnecessary death.
99. Lieutenant Fitzpatrick, Commander of the Suffolk County Police Department Homicide Squad, intentionally misled the media about the factual events—both at the scene of JACK JR.'s arrest and at the Seventh Precinct.

SUPERVISOR LIABILITY

100. Defendants John and Jane Does include supervisory personnel who were discharged with the responsibility to, and owed a duty of care to detainees such as JACK JR. to
 - a. oversee the daily operations of the Seventh Precinct personnel,

- b. supervise and ensure that police personnel comply with the Suffolk County Police Department rules, regulations, and protocol governing the arrest process, mental and physical health evaluations, and housing and supervision of pre-trial detainees held within the precinct holding cells,
 - c. supervise and ensure that police personnel comply with federal, state, and local laws, rules, regulations, and protocol governing the housing and supervision of pre-trial detainees held within the precinct holding cells, and
 - d. implement immediate redial measures when necessary to ensure the health, safety, and welfare of pre-trial detainees.
101. Based upon the facts outlined above, *see* ¶¶ 42-99, defendant supervisors John and Jane Does were aware of, or should have been aware of, JACK JR.'s need for constant supervision pending medical treatment.
102. Defendant supervisors John and Jane Does were made aware of JACK JR.'s request for medical attention based upon JACK JR.'s persistent cries for medical attention and threats of suicide, yet ignored those pleas for help thereby directly participating in the aforementioned violations of JACK JR.'s constitutional and statutory rights.
103. Defendant supervisors John and Jane Does were made aware of JACK JR.'s request for medical attention and threats of suicide through oral report(s) of a subordinate(s) and/or visual observations, yet ignored the report(s), thereby participating in the aforementioned constitutional and statutory violations against JACK JR.
104. Defendant supervisors John and Jane Does were grossly negligent in their supervision of their subordinates in that JACK JR. persistently cried out for medical attention and threatened suicide, yet defendant supervisors failed to give orders to ensure JACK JR.'s health, safety, and welfare under the existing circumstances, failed to monitor the situation, and failed to engage in remedial action, thereby allowing subordinate(s) to continue to engage in unconstitutional and unlawful acts.
105. Defendant supervisors John and Jane Does thereby breached the duty of care they owed to JACK JR.
106. Defendant supervisors' breach of their duty of care to JACK JR. directly and proximately caused the aforementioned constitutional and statutory violations against JACK JR. resulting in JACK JR.'s injuries.
107. Supervisors John and Jane Does were deliberately indifferent to JACK JR.'s clearly defined constitutional and statutory rights in that they ignored JACK JR.'s persistent cries for medical attention and threatened suicide, and/or ignored oral report(s) indicating JACK JR.'s repeated requests for medical attention and threats of suicide, and/or ignored their visual observations of JACK JR., individually and/or collectively, which placed the defendant supervisors on notice of a substantial risk of serious physical harm to JACK

JR.—the threat of suicide and a failed attempt of suicide—yet failed to give orders to ensure JACK JR.’s health, safety, and welfare under the existing circumstances, failed to monitor the situation and failed to engage in remedial action. The forgoing failures individually and/or collectively constitute deliberate indifference on the part of the defendant supervisors by failing to act on information indicating that unconstitutional acts were occurring.

108. As a direct and proximate result of defendants’ actions, JACK JR. suffered the injuries and damages described above.

DEFENDANTS ILLEGALLY SOUGHT TO OBTAIN EVIDENCE, AFTER JACK JR. AND SIMON HAD ALREADY BEEN ILLEGALLY DETAINED AND JACK JR. HAD ALREADY BEEN UNLAWFULLY ARRESTED WITHOUT REASONABLE SUSPICION, PROBABLE CAUSE, OR A WARRANT FOR HIS ARREST.

109. JACK JR. and SIMON had been socializing in a peaceful manner and for a lawful purpose in front of SIMON’s home when defendants approached and intentionally, wrongfully, and maliciously violated JACK JR. and SIMON’s constitutional rights.
110. Given that nothing under the existing factual circumstances provided defendants with reasonable suspicion or probable cause to arrest JACK JR. or SIMON, and that they did not have a warrant authorizing them to do so, they sought to obtain evidence of criminal activity, after the fact, in unlawful and unconstitutional manners, in an attempt to justify their prior unlawful actions.
111. Once the police vehicle in which JACK JR. had been placed left 6 Cordwood Path and transported JACK JR. to the Seventh Precinct, two uniformed police officers entered SIMON’s home, without having obtained a warrant or having been granted consent to do so, and despite the fact that no exigent circumstances existed that would authorize their unwarranted and unconsented entry into SIMON’s home.
112. Mr. and Mrs. Earl were not home on January 23, 2013. SIMON, who resides at 6 Cordwood Path with his parents, had a reasonable expectation of privacy in his home.
113. The defendant police officers knew that SIMON lived in that home because 6 Cordwood Path is the address listed on SIMON’s New York State Driver’s License which they had unlawfully taken from SIMON’s pocket. However, the defendants nonetheless never sought SIMON’s consent to enter his home prior to doing so, nor did they make an application for a warrant to a neutral magistrate.
114. Darryl Moore (hereinafter “MOORE”), a licensed contractor and owner of DTM contracting, Inc., and Jay Moshier (hereinafter “MOSHIER”), a carpenter for DTM Contracting, Inc., were present in the Earl residence on January 23, 2013, at the time the defendants entered SIMON’s home.

115. After the two police officers entered the Earl home, without a warrant or consent, they called out "hello, hello," several times. MOORE, who had been working on remodeling a bathroom on the second floor of the Earl home, responded "hello?" to the police officers' calls, and made his way downstairs to see who had entered the house.
116. Before MOORE made his way to the front of the house, MOSHIER, who was walking down the first floor hallway toward the front entrance of the home on his way out of the house, observed two uniformed police officers, one male and one female, standing inside the home, in the foyer by the front door. The officers asked MOSHIER who he was, at which time he yelled for MOORE to come downstairs. MOSHIER told both officers that he did not authorize them to enter the home without a warrant given that Mr. and Mrs. Earl were not home at the time.
117. While MOSHIER informed the two police officers that they did not have consent to enter the home, MOORE came downstairs and approached the two police officers who were standing in the foyer by the entrance of the house. The male officer asked MOORE who he was and who had given him permission to be inside the home. MOORE explained that he was a contractor, hired by Nicholas and Anne Earl who were not home at the time, and that their son, SIMON, had been letting him into the house. The male officer showed MOORE SIMON's New York State Driver's License which had been taken from SIMON's pocket after SIMON was seized and searched unlawfully, and asked MOORE if that was the individual who had been letting him into the house. MOORE responded that it was him, SIMON.
118. MOORE then confronted the police officers and asked them who had given them permission to enter the house, to which they responded, "Nobody we walked in." When MOORE then asked them if they had permission to be inside the house, they responded asking "Why do you have something to hide?" and that "It's none of your business!" The officers appeared agitated at this time, and they informed MOORE that they were looking for drugs and weapons.
119. The two police officers inside the Earl residence then proceeded to the kitchen where they began searching through papers on the kitchen counter and looking inside ashtrays. Meanwhile, MOORE and MOSHIER went back to work.
120. Several minutes later MOSHIER observed the two police officers searching SIMON's car, which was parked inside the garage which is attached to the basement of the Earl home.
121. Police officers eventually removed SIMON's handcuffs, and SIMON was released from the police vehicle. SIMON immediately went inside his home, at which point he observed one male police officer searching his basement. SIMON asked the officer what he was doing in his basement, and the police officer smirked and left the house.
122. The next day, one day after JACK JR.'s death, MOSHIER observed GRENIA in front of 6 Cordwood Path. He observed her searching through the seats and glove box of JACK JR.'s vehicle which was still parked in front of the Earl home. Neither a warrant nor

consent authorizing the search had been obtained. MOSHIER overheard GRENIA speaking into what appeared to be her cell phone, stating that “I can’t find anything. There’s nothing in here.”

**DEFENDANTS SUBSEQUENTLY HARASSED AND INTIMATED SIMON WHO
WITNESSED THE INITIAL POLICE MISCONDUCT**

123. Defendants GRENIA and others not yet known subsequently harassed and intimidated SIMON, a witness to the initial police misconduct, by intimidating him and his family and threatening them directly and indirectly by words and actions.
124. Defendant GRENIA harassed SIMON and his family by repeatedly driving by the family’s home over the course of the ensuing months, entering their driveway and recording license plate numbers of the vehicles that were parked therein, and parking police cruisers at the top of Cordwood Path claiming to ‘watch the stop sign.’
125. Additionally, GRENIA and others not yet known unlawfully seized and searched SIMON and his vehicle on April 9, 2013.
126. SIMON was pulled over on the corner of Southgate and Norman by GRENIA and others not yet known. When he told them that he did not want to get out of his car, GRENIA said that he didn’t have a choice, he will be getting out one way or another, and that they will force him out if necessary.
127. GRENIA screamed and yelled at SIMON, demanding to know where he was going, and screaming that SIMON had better respect her authority.
128. Police officers on scene searched through SIMON’s car after SIMON explicitly informed them that he did not consent to the search. They questioned him about JACK JR. and the incident that had occurred on January 23, 2013, even after SIMON specifically told them that he had a lawyer and that he did not want to answer their questions.
129. GRENIA mocked, threatened, and intimidated SIMON, and shouted that “you are three seconds from being kneed in the balls.”
130. When the police officers had approached SIMON’s car, he had informed them that he was recording the encounter on his cell phone. The officers had ordered SIMON to close his cell phone, which he did. After they left the scene 30-40 minutes later, SIMON immediately checked his cell phone and noticed that the recording had been deleted, without his knowledge or consent.
131. The actions of all defendants complained of herein, *see* ¶¶ 16-130, were performed under color of law and within the scope of their employment and authority.

CAUSES OF ACTION

COUNT I

42 U.S.C. § 1983 – False Arrest

- 132. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-131 as though fully set forth herein.
- 133. Defendants, acting under color of law, violated JACK JR.'s right to be free from false arrest, in violation of the United States and New York State Constitutions and laws.

COUNT II

42 U.S.C. § 1983 – False Imprisonment

- 134. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-133 as though fully set forth herein.
- 135. Defendants, acting under color of law, violated JACK JR.'s right to be free from false imprisonment, in violation of the United States and New York State Constitutions and laws.

COUNT III

42 U.S.C. § 1983 –Denial of Adequate Medical Treatment

- 136. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-135 as though fully set forth herein.
- 137. Defendants, acting under color of law, violated JACK JR.'s right to adequate medical treatment, in violation of the United States and New York State Constitutions and laws.

COUNT IV

42 U.S.C. § 1983 – Unreasonable and Excessive Force

- 138. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-137 as though fully set forth herein.
- 139. Defendants, acting under color of law, violated JACK JR.'s right to be free from unreasonable and excessive physical force, in violation of the United States and New York State Constitutions and laws.

COUNT V

42 U.S.C. § 1983 – Unreasonable and Excessive Force

140. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-139 as though fully set forth herein.
141. Defendant GRENNIA, acting under color of law, violated JACK JR.'s right to be free from unreasonable and excessive use of force, in violation of the United States and New York State Constitutions and laws.

COUNT VI

42 U.S.C. § 1983 – Cruel and Unusual Treatment

142. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-141 as though fully set forth herein.
143. Defendants, acting under color of law, violated JACK JR.'s right to free from cruel and unusual treatment, in violation of the United States and New York State Constitutions and laws.

COUNT VII

42 U.S.C. § 1983 – Failure to Intercede

144. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-143 as though fully set forth herein.
145. Defendants, acting under color of law, violated JACK JR.'s constitutional and statutory rights by their failure to intercede to protect his clearly established constitutional and statutory rights, in violation of the United States and New York State Constitutions and laws.

COUNT VIII

42 U.S.C. § 1983 – Unnecessary and Wanton Infliction of Pain

146. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-145 as though fully set forth herein.
147. Defendants, acting under color of law, inflicted unnecessary and wanton pain to JACK JR. due to their intentional conduct and/or deliberate indifference to JACK JR.'s medical needs by denying him adequate medical care despite his continuous pleas to obtain such care, in violation of the United States and New York State Constitutions and laws.

COUNT IX
42 U.S.C. § 1983 – Due Process Violations

148. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-147 as though fully set forth herein.
149. Defendants, acting under color of law, violated JACK JR.'s right to due process under law due to their intentional and malicious conduct, in violation of the rights and liberties guaranteed to JACK JR. by the United States and New York State Constitutions and laws.

COUNT X
42 U.S.C. § 1983 – Supervisory Liability

150. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-149 as though fully set forth herein.
151. Defendants, acting under color of law, violated JACK JR.'s constitutional and statutory rights by their failure to properly supervise and intercede to protect JACK JR.'s clearly established statutory and constitutional rights.

COUNT XI
Pendent State Claim for False Arrest

152. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-151 as though fully set forth herein.
153. Defendants, acting under color of law, violated JACK JR.'s right to be free from false arrest, in violation of the United States and New York State Constitutions and laws.

COUNT XII
Pendent State Claim for False Imprisonment

154. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-153 as though fully set forth herein.
155. Defendants, acting under color of law, violated JACK JR.'s right to be free from false imprisonment, in violation of the United States and New York State Constitutions and laws.

COUNT XIII
Pendent State Claim for Battery

156. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-155 as though fully set forth herein.
157. JACK JR. suffered blunt impact injuries to his head, torso, and upper and lower extremities as a result of defendants' intentional and unlawful acts.
158. Defendants, acting under color of law, unlawfully battered JACK JR.

COUNT XIV
Pendent State Claims for Denial of Adequate Medical Treatment

159. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-158 as though fully set forth herein.
160. The rules governing the operation of holding facilities impose an affirmative duty upon defendants to provide medical care to pre-trial detainees.
161. Defendants breach that duty of care to JACK JR. thereby causing him injury.
162. Defendants, acting under color of law, violated JACK JR.'s right to receive adequate medical treatment pursuant to State and local rules and regulations.

COUNT XV
**Pendent State Claim for Failure to Properly Maintain a Holding Cell
Pursuant to State Law**

163. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-162 as though fully set forth herein.
164. The rules governing the maintenance of holding facilities impose an affirmative duty upon defendants to maintain holding facilities in reasonable conditions.
165. The rules governing the maintenance of holding facilities prohibit confining detainees in holding cells with degrading conditions such as inadequate heating or conditions likely to be injurious to health, safety, and welfare.
166. The conditions in the Seventh Precinct holding cell were degrading and inhumane; there was no heating, the temperature was bitterly cold, and JACK JR. was given nothing to keep himself warm except his t-shirt, jeans, and socks that he was permitted to keep.

167. Defendants inflicted unnecessary and wanton pain to JACK JR. due to their intentional conduct and/or deliberate indifference to JACK JR.'s health, safety, and welfare by maintaining a holding cell with unreasonably low temperatures, placing him in that holding cell, and failing to provide adequate means for JACK JR. to keep himself warm or transfer JACK JR. to a similar facility with adequate heating.
168. Defendants, acting under color of law, breached their duty of care to JACK JR. and failed to properly maintain a holding cell pursuant to State and local rules and regulations, thereby causing injury to JACK JR.

COUNT XVI

Pendent State Claim for Failure to Properly Supervise a Holding Cell Pursuant to State Law

169. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-168 as though fully set forth herein.
170. The rules governing the operation of holding facilities impose an affirmative duty upon officers maintaining such facility to periodically check the status of the physical and mental wellbeing of detainees, maintain a proper log book, and when warranted, continuously monitor detainees amongst other regulatory requirements. The defendants breached one or more of these duties of care thereby causing injury to JACK JR.
171. Defendants failed to comply with the statutory and regulatory requirements to supervise a holding cell within the State of New York.
172. Defendants, acting under color of law, failed to properly supervise JACK JR.'s holding cell pursuant to State and local rules and regulations, thereby causing injury to JACK JR.

COUNT XVII

Pendent State Claims for Intentional and Negligent Infliction of Emotional Distress

173. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-172 as though fully set forth herein.
174. Defendants acted intentionally and maliciously when they repeatedly beat and struck JACK JR. after they pulled him from his car and threw him on the ground.
175. These actions were extreme and outrageous given that JACK JR. was on the ground and not resisting arrest, and exceeds all bounds of decency usually tolerated by a civilized society.

176. These actions were committed with the intent to cause JACK JR. to suffer extreme mental and emotional distress, agony, and anxiety, or with the reckless disregard of the extreme mental and emotional distress, agony, and anxiety such actions would likely cause.
177. JACK JR. did indeed suffer extreme mental and emotional distress, agony, and anxiety as a direct and proximate result of defendants' actions.
178. Defendants' actions unreasonably endangered JACK JR.'s physical safety.
179. Defendants' actions caused JACK JR. to fear for his safety.
180. Defendants caused JACK JR. to hang himself just several hours later at the prospect of having to remain in jail under the supervision of law enforcement personnel.
181. Defendants acted intentionally and maliciously when they ignored JACK JR.'s continuous desperate pleas and cries for medical treatment while in their custody.
182. These actions were extreme and outrageous given that JACK JR. had been beaten by defendants while being placed under arrest, and suffered physical injuries as a result of the defendants' conduct.
183. These actions were extreme and outrageous given that JACK JR. screamed and pleaded for medical assistance continuously for several hours.
184. These actions were extreme and outrageous given that Defendants knew or should have known that JACK JR. was clearly suicidal and a danger to himself. Defendants knew or should have known that:
 - a. JACK JR. repeatedly yelled that he would be leaving the holding cell in a body bag if he did not receive medical assistance,
 - b. JACK JR. actually attempted to hang himself with his t-shirt prior to hanging himself with his jeans, and
 - c. JACK JR. had been acting irrationally for hours while in the defendants' direct presence including but not limited to verbal threats of suicide, physical acts in furtherance of suicide, irrational physical acts such as sticking his head in the toilet bowl, banging his head against the wall, and disrobing, amongst other evidence warranting medical assistance, all of which occurred while JACK JR. was in defendants' custody during which time they were charged with the responsibility of his care.
185. Defendants' intentional failure to act where a duty to act existed, was done with the intent to cause JACK JR. to suffer extreme mental and emotional distress, agony, and anxiety, or with the reckless disregard of the extreme mental and emotional distress, agony, and anxiety such actions would likely cause.

186. JACK JR. did indeed suffer extreme mental and emotional distress, agony, and anxiety as result of defendants' actions.
187. Defendants' actions unreasonably endangered JACK JR.'s physical safety.
188. Defendants' actions caused JACK JR. to fear for his safety.
189. Defendants' actions perpetuated JACK JR.'s fear of the police, and caused him to hang himself at the prospect of having to remain in jail under the supervision of law enforcement personnel.
190. Defendants, acting under color of law, intentionally and/or negligently inflicted emotional distress to JACK JR.

COUNT XVIII

Pendent State Claim for Intentional or Malicious Harm (Prima Facie Tort)

191. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-190 as though fully set forth herein.
192. Defendants' actions were motivated by malice and/or disinterested malevolence.
193. Defendants acted without excuse or justification.
194. As a direct and proximate result of defendants' actions, JACK JR. suffered physical injuries—"blunt impact injuries" to his head, torso, and upper and lower extremities.

COUNT XIX

Pendent State Claim for Wrongful Death Pursuant to EPTL § 5-4.1 and Survival Pursuant to EPTL § 11-3.2.

195. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-194 as though fully set forth herein.
196. JACK JR. died on January 23, 2013. *See* Exhibit 'D.'
197. Plaintiff, JOAQUIN FRANQUI III, was appointed Administrator of the Estate of JACK FRANQUI IV on September 9, 2013. *See* Exhibit 'K' annexed hereto.
198. JACK JR. left surviving next of kin.
199. Defendants acted wrongfully when they intentionally failed to provide JACK JR. with medical assistance despite his repeated pleas for such treatment.

200. Defendants acted wrongfully when they intentionally failed to provide JACK JR. with medical assistance despite the fact that they knew or should have known that JACK JR. was clearly suicidal and a danger to himself. Defendants knew or should have known that:

- a. JACK JR. repeatedly yelled that he would be leaving the holding cell in a body bag if he did not receive medical assistance,
- b. JACK JR. actually attempted to hang himself with his t-shirt prior to hanging himself with his jeans, and
- c. JACK JR. had been acting irrationally for hours while in the defendants' direct presence including but not limited to verbal threats of suicide, physical acts in furtherance of suicide, irrational physical acts such as sticking his head in the toilet bowl, banging his head against the wall, and disrobing, amongst other evidence warranting medical assistance, all of which occurred while JACK JR. was in defendants' custody during which time they were charged with the responsibility of his care.

201. Defendants' wrongful acts directly and proximately caused JACK JR. conscious pain and suffering.

202. Defendants' wrongful acts caused JACK JR.'s death given that he hung himself because of their failure to provide him with medical assistance, as he had repeatedly informed them he would do.

203. JACK SR., JACK JR.'s father, incurred funeral expenses in the amount of \$7,775.00, and other expenses not yet known. *See* Exhibit 'L' annexed hereto.

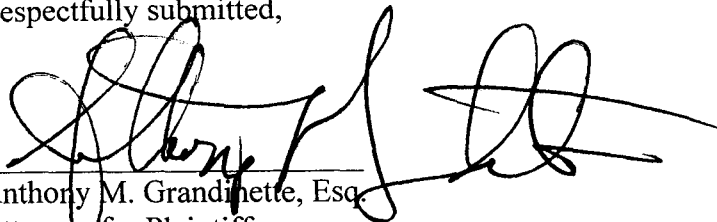
204. If JACK JR. had not died in the Seventh Precinct holding cell on January 23, 2013, defendants would be directly liable to him for their intentionally wrongful acts.

WHEREFORE, Plaintiff requests the following relief jointly and severally as against all the defendants:

1. A trial by jury on all issues;
2. An award of compensatory damages in an amount to be determined at trial;
3. An award of punitive damages in an amount to be determined at trial;
4. Disbursements, costs, and attorneys' fees pursuant to 42 U.S.C. § 1988; and
5. Such other and further relief as this Court may deem just and proper.

Dated: Mineola, New York
October 28, 2013

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Anthony M. Grandinette', written over a horizontal line.

Anthony M. Grandinette, Esq.
Attorney for Plaintiff
114 Old County Road
Mineola, NY 11501
(516) 877-2889

CC: Suffolk County Attorney's Office
c/o ACA Arlene Zwilling
H. Lee Dennison Building
100 Veterans Memorial Highway
Hauppauge, N.Y. 11788

Suffolk County Police Department
30 Yaphank Ave
Yaphank, N.Y. 11980

EXHIBIT A

-----X
In the matter of the ESTATE OF JACK FRANQUI IV

-against-

THE COUNTY OF SUFFOLK, SUFFOLK COUNTY POLICE
DEPARTMENT, POLICE OFFICERS JOHN AND JANE
DOES 1-10,
-----X

NOTICE OF CLAIM

RECEIVED
2013 APR 12 A 9:33
SUFFOLK COUNTY

S I R S :

PLEASE TAKE NOTICE, that claimant, Joaquin Franqui, on behalf of his deceased son JACK FRANQUI IV hereby files claim against the above captioned Defendants, for the following claims: assault and battery, harassment, false arrest, false imprisonment, malicious prosecution, conspiracy, failure to provide medical care, failure to properly supervise, failure to properly maintain and supervise a holding cell pursuant to state law, fabrication of evidence and records, denial of claimants right to due process of law, right to counsel, libel, slander, intentional and negligent infliction of emotional duress, excessive force, cruel and inhuman treatment, and other claims not yet known.

The aforesaid occurrence took place on or about January 23, 2013 at approximately 11:00 am in front of 6 Cordwood Path, Shoreham, County of Suffolk, State of New York and thereafter at the 7th precinct station house. That Suffolk County Police Officer, Jane Doe, shield number 5736 and id #917351 and others yet unknown did harassed, threatened, menaced, through the threatened use of deadly physical force, namely a loaded firearm, illegally stopped and searched JACK FRANQUI IV and SIMON EARL, both their person and property without lawful authority, and engage in such other violations of FRANQUI AND EARL'S civil rights. That said officers engaged in the

excessive use of non-deadly physical force against JACK FRANQUI IV striking, restraining and assaulting him. The Suffolk Officers engaged in this behavior individually and under color of state law while allegedly attempting to effectuate an arrest of JACK FRANQUI IV. Thereafter FRANQUI was transported to the 7th precinct where he was processed and placed in a holding cell. FRANQUI'S repeated requests for medical care were ignored. Mr. FRANQUI'S oral statements about harming himself were ignored by police. Mr. FRANQUI'S first physical attempt at harming himself was also ignored by police, whom merely cut down his tee shirt which was affixed to the cell bars as a ~~hose~~^{waist} by FRANQUI. Despite oral and now physical acts placing police on notice of FRANQUI'S suicidal and obvious fragile state of mind, as well as FRANQUI'S numerous and continuous pleas for medical care, police ignored FRANQUI. Failing to remove FRANQUI to a hospital or continuously monitor his behavior was an egregious deviation from acceptable administrative, legislative and departmental regulations and state laws designed to insure the health safety and welfare of inmates placed in holding cells within the State of New York. As a result, FRANQUI hung himself with his own blue jeans. The cause of death was preliminarily reported by Suffolk Medical examiner as "Hanging with ligature mark"(pulmonary congestion), and the manner of death labeled a suicide. FRANQUI'S suicide by hanging occurred in the 7th precinct holding cell which was monitored by video cameras, inside a precinct full of police officers on notice of FRANQUI'S suicidal state of mind. Thereafter, members of the Suffolk police department arrived, interviewed parties whom misrepresented and withheld material facts, in an effort to falsely report the true nature of events to avoid and shield members of the department from administrative and civil responsibility for their acts and failure to act, all which lead to

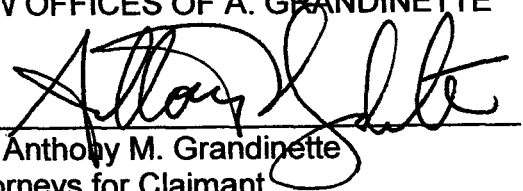
the unnecessary death of JACK FRANQUI IV. Those directly involved lied to State investigators and fabricated and altered physical evidence to conceal wrongdoing to avoid and shield members of the department from administrative and civil responsibility for their actions and/or inaction which lead to the unnecessary death of JACK FRANQUI IV. Thereafter defendants' fabricated a factual account alleging Mr. FRANQUI 'S behavior in an attempt to justify otherwise unlawful and egregious conduct. As part of this plan, Suffolk police officer Jane Doe, shield number 5736 and id #917351 and others not yet none continue to harass SIMON EARL, a witness to the initial misconduct by intimidating him and his family, threatening them directly and indirectly by words and deeds after the date of events.

By conduct under color of State law, the defendant's committed numerous crimes against claimant including assault and battery, harassment, false arrest, false imprisonment, malicious prosecution, conspiracy and denial of claimants right to due process of law, right to counsel, libel, slander, intentional and negligent infliction of emotional duress, excessive force, cruel and inhuman treatment, denial of medical care, negligent supervision and other claims not yet known, and thereafter made false statements created and utilized to provide false evidence against the claimant while knowing such evidence was false and to be relied upon by a Judge, prosecutors, and State and local officials all against the rights guaranteed claimant by the U.S. and New York State Constitutions.

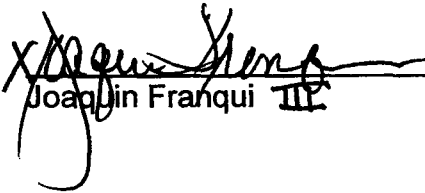
That as a direct result of defendants' conduct JACK FRANQUI IV unnecessarily died while surrounded by those sworn to protect and serve the citizens of the State of New York including JACK FRANQUI IV.

Dated: Mineola, New York , April 16, 2013

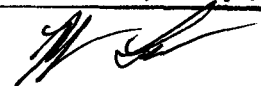
LAW OFFICES OF A. GRANDINETTE


By: Anthony M. Grandinette
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(516) 877-2889(T)
(516) 294-5348(F)

Grandinettelaw@gmail.com


Joaquin Franqui III

Sworn to on 18
Day of April 2013


ROBERT LEAKE
Notary Public, State of New York
Registration #01LE6205017
Qualified in Nassau County
Commission Expires May 4, 2017

TO: OFFICE OF THE SUFFOLK COUNTY ATTORNEY
H. LEE DENISON BUILDING
VETERANS MEMORIAL HIGHWAY
Hauppauge, New York 11501

NEW YORK ATTORNEY GENERALS OFFICE
120 Broadway
New York City, NY 10271-0332

EXHIBIT B

CC # 2013-0068103	Pct 7	Sector 703	Car 703	SCPD Incident Report		Orig Supp <input checked="" type="checkbox"/>	Domestic <input type="checkbox"/>	MVA <input type="checkbox"/>	Missing <input type="checkbox"/>	Person <input type="checkbox"/>
INCIDENT										
Report Date 1/23/2013	Report Time 14:30	Day WED	Date (Occurred On/From) 1/23/2013	Time 11:11	Day	Date (Occurred To)	Time			
Business name and type (if residence, so indicate)							Town Code			
Incident Address 6 CORDWOOD PA EAST SHOREHAM										
No.	LAW	NAME OF OFFENSE	DEG	ART/SECTION	SUB	CAT	ATT	CTS	TARGET (J)	WEAPON CODES (A)
1	VTL	OP MV DRUGS 1ST	0	1192	04	M	C	1		88
1	PL	RESIST ARREST	0	205.30	00	M	C	1		88
1	PL	OBS GOVT ADMN 2	2	195.05	00	M	C	1		

Person Type: C=Complainant V=Victim A=Arrestee S=Identified Suspect W=Witness N=Neighbor P=Person Interviewed O=Other

ASSOCIATED PERSONS										
Per 1	Type A	Name (Last,First,Middle) FRANQUI, JACK	D.O.B. 12/14/1986	Sex	Race	Home Tel#	Work Tel#	Cell Tel#		
Address 83 MAGNOLIA RD ROCKY POINT NY			Offense	Offender	K	L	M	N	Q	R
Per 2	Type C	Name (Last,First,Middle) SCPD,	D.O.B.	Sex	Race	Home Tel#	Work Tel#	Cell Tel#		
Address 1491 CR 46 SHIRLEY NY			Offense	Offender	K	L	M	N	Q	R
Neighborhood Canvass <input type="checkbox"/>			Inv. Notified <input type="checkbox"/>			Investigating Officer (Name, Shield)			Reporting Officer GRENNIA, KAREN PO/5736/3A2	
			Inv. Responding <input type="checkbox"/>							

PROPERTY										
Veh 1	Status 08	License Plate No. GCA9733	Partial <input type="checkbox"/>	State NY	Exp Yr.	Plate Type PASS	Mileage 0	Keys in Vehicle		
Veh. Year 1972	Make CADILLAC	Model	Style	VIN						
Color(s) GOLD	Insurance Carrier	Vehicle Notes								
# of Crime Guns Recovered 0				# of Crime Guns Sent to Crime Lab 0						
Per #	Quantity	Measure	Description (Include make, model, serial no., etc.)			Property Type	Property Status	Drug Type	Measure Source	Value
Property Total										

NARRATIVE										
ABOVE ARRESTED FOR THE ABOVE CHARGES AND TRANSPORTED TO THE 7TH PRECINCT FOR PROCESSING WITHOUT INCIDENT.										T U

Did reporting officer provide the victim with information on Victim's Rights and Services pursuant to NYS Law?

☐ Yes☒ No

ADMINISTRATIVE										
Evidence/Tech work performed										
Teletype No.		Connected CC #s					# of Affidavits Prepared 0			
Reclassification <input type="checkbox"/>	Reclassified to:	Reclassified From:		IRS Updated <input type="checkbox"/>	PDCS 1099-1 to follow <input type="checkbox"/>		Confidential <input type="checkbox"/>			
<input type="checkbox"/> ACTIVE	<input type="checkbox"/> CLOSED (NON-CRIMINAL ONLY)	<input checked="" type="checkbox"/> CLEARED BY ARREST		Exceptionally Cleared Code		Status Date 1/23/2013		TOT		
<input type="checkbox"/> PENDING	<input type="checkbox"/> EXCEPTIONALLY CLEARED		<input type="checkbox"/> WARRANT ISSUED							

*** End of Report ***

 POLICE DEPARTMENT
 COUNTY OF SUFFOLK
 MAR - 7 2013

CC # 2013-0068103	Reporting / Investigating Officer GRENNIA, KAREN PO/5736/3A2	Supervisor GINLEY, WILLIAM SGT/1179	Pages 1 of 1
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CL 13-0068103/SPD ARREST NO 2624 PIN 458248

POLICE DEPARTMENT, COUNTY OF SUFFOLK NY
ACCREDITED LAW ENFORCEMENT AGENCY
ARREST REPORT PDCS-1045C

LAST NAME, FIRST MI: FRANQUI, JACK

DATE OF ARREST 01/23/13		TIME OF ARREST 1146		ARREST TYPE SIGHT (SUMMARY)		LOCATION OF ARREST 6 CORDWOOD PATH, SHOREHAM () INSIDE (X) OUTSIDE					
INCIDENT LOCATION: 6 CORDWOOD PATH SHOREHAM, BROOKHAVEN						OCCURRED: (X) ON () BETWEEN		DATE: 01/23/13		TO DATE:	
ARRESTING OFFICER: GRENNIA, KAREN						PID # 40054		SHIELD 5736		RANK PO	
FINGER PRINTED: (X) YES () NO		PHOTOGRAPHED: (X) YES () NO		WEAPON (DESCRIBE)							
CT 001 002 003	LAW VTL PL PL	ART 1192 205.30 195.05	SUB 04	CLASS U A A	DEG 0 0 2	CAT M M M	DESCRIPTION OPER MV IMPAIRED BY DRUGS 1ST RESISTING ARREST OBSTRUCT GOVERNMENTL ADMIN-2ND				ATT. COMP. X X X
LAST NAME FRANQUI						FIRST JACK		MI		NICKNAME / ALIAS	
ADDRESS 83 MAGNOLIA DRIVE						CITY ROCKY POINT		STATE NY		ZIP 11778	
HOME PHONE 6318213086		CELL PHONE 6318792577		CELL CARRIER PREPAID		EMAIL ADDRESS JDFRANQUI@GMAIL.COM					
MARITAL STATUS SINGLE		MOTHER'S MAIDEN NAME DAILEY		CITIZENSHIP US		RESIDENCY STATUS Resident		IMMIGRATION STATUS			
BIRTHPLACE: CITY ISLIP		COUNTY SUFFOLK		STATE NY		COUNTRY US		MILITARY SERVICE			
SEX M	RACE/ETHNICITY WHITE NON HISPANIC		HEIGHT 602	WEIGHT 180	EYE COLOR HAZ	EYE DEFECTS NOR BAG		HAIR COLOR BRO	HAIR LENGTH / STYLE SHO STR		
BUILD MED	COMPLEXION WHI	L/R HANDED R	SPEECH SLU	CLOTHING CASUAL EVERYDAY JEANS			MUST/BEARD NON	VISIBLE SCARS/MOLES NON NON		AMPUTATION	
LANGUAGE ENG		TRANSLATOR UTILIZED (X) YES () NO		GANG MEMBER () YES (X) NO		GANG NAME		STREET NAME			
TATTOO (DESCRIBE) TATOO BACK MIL/SYM, TAT OTHER PICTURES, TAT BACK PICTURES, TATOO BACK WORDS, TATOO F											
EMPLOYER UNEMPLOYED										PHONE NUMBER	
BUSINESS ADDRESS										CITY	
STATE										ZIP	
OCCUPATION										GOVERNMENT ENTITY () YES () NO	
COLLECTING UNEMPLOYMENT () YES () NO										DISABILITY BENEFITS () YES () NO	
VIN # 6L47S2Q406125		PLATE # GCA9733		STATE NY		YEAR 1972		MAKE CADI		MODEL ELDORADO	
LICENSE # 385 668 341		NY		DISPOSITION IN CUSTODY OF ARRESTEE		VIOLATION(S)					
DWI TEST TYPE:		COURT ORDERED: () YES (X) NO		TEST DATE:		TEST TIME:		TEST KIT NUMBER:			
TEST ADMINISTERED BY:						TEST LOCATION:					

BRIEF DETAILS OF OFFENSE:

THE DEFENDANT, AT 6 CORDWOOD PATH, SHOREHAM, IN THE TOWN OF BROOKHAVEN, SUFFOLK COUNTY, NEW YORK, ON OR ABOUT JANUARY 23, 2013, AT APPROXIMATELY 11:11 A.M., OPERATED A MOTOR VEHICLE WHILE HIS ABILITY TO OPERATE SUCH A MOTOR VEHICLE WAS IMPAIRED BY THE USE OF A DRUG; IN THAT, THE DEFENDANT DID OPERATE A 1972 CADILLAC NY REGISTRATION GCA9733 IN A NORTHERLY DIRECTION ON CORDWOOD PATH, A PUBLIC HIGHWAY, WHILE HIS ABILITY WAS IMPAIRED BY DRUGS, NAMELY MARIJUANA. DEFENDANT STATED TO YOUR DEPONENT " I SMOKED A BOWL OF MARIJUANA WITH MY FRIEND SIMON ABOUT 30 MINUTES BEFORE YOU GOT ME." " I KNOW I SHOULD NOT HAVE BEEN DRIVING, I AM ON PROBATION ALREADY." UPON INTERVIEWING THE DEFENDANT, IT WAS OBSERVED AND NOTED THAT HE HAD RED BLOODSHOT EYES, SLOW SLURRED SPEECH, AND THE VEHICLE EMITTED A STRONG SMELL OF MARIJUANA. THE DEFENDANT WAS ARRESTED AND TRANSPORTED TO THE 7TH PRECINCT, SHIRLEY, NY WHERE ON 01/23/13 AT 1236, 1246, AND 1256 DID REFUSE TO SUBMIT TO A BLOOD TEST.

CERTIFIED
CENTRAL RECORDS SECTION
SUFFOLK COUNTY POLICE DEPARTMENT

REPORTING OFFICER NAME
GRENNIA, KARENRANK
POSHIELD
5736COMMAND
0710PCT
07SECTOR
703

REVIEW COPY

PRINT DATE: 02/28/13 PRINT TIME: 15:05:55

Arrest Number: 002624-13 Agy: SPD Date: 01/23/13 Time: 1146

PIN: 458248 Name: FRANQUI, JACK NYSID: 02484984J
Address: 83 MAGNOLIA DRIVE, ROCKY POINT, NY 11778
Phone: 6318213086 Cell: 6318792577

Race: W Sex: M DOB: 12/14/86

Arrest Location:
6 CORDWOOD PATH

Pct: 07 Sector: 703 Town: BR Hamlet: SHOREH

Arrested By:
Officer: GREINIA, KAREN PO 5736 / 0710

How: S - Sight (Summary) Reason: P - Personal Knowledge

Arrest/Charge Data

CC Number: 13-0068103

001 VTL 1192 04 UM0 C OPER MV IMPAIRED BY DRUGS 1ST

THE DEFENDANT, AT 6 CORDWOOD PATH, SHOREHAM, IN THE TOWN OF BROOKHAVEN, SUFFOLK COUNTY, NEW YORK, ON OR ABOUT JANUARY 23, 2013, AT APPROXIMATELY 11:11 A.M., OPERATED A MOTOR VEHICLE WHILE HIS ABILITY TO OPERATE SUCH A MOTOR VEHICLE WAS IMPAIRED BY THE USE OF A DRUG; IN THAT, THE DEFENDANT DID OPERATE A 1972 CADILLAC NY REGISTRATION GCA9733 IN A NORTHERLY DIRECTION ON CORDWOOD PATH, A PUBLIC HIGHWAY, WHILE HIS ABILITY WAS IMPAIRED BY DRUGS, NAMELY MARIJUANA. DEFENDANT STATED TO YOUR DEPONENT " I SMOKED A BOWL OF MARIJUANA WITH MY FRIEND SIMON ABOUT 30 MINUTES BEFORE YOU GOT ME." " I KNOW I SHOULD NOT HAVE BEEN DRIVING, I AM ON PROBATION ALREADY." UPON INTERVIEWING THE DEFENDANT, IT WAS OBSERVED AND NOTED THAT HE HAD RED BLOODSHOT EYES, SLOW SLURRED SPEECH, AND THE VEHICLE EMITTED A STRONG SMELL OF MARIJUANA. THE DEFENDANT WAS ARRESTED AND TRANSPORTED TO THE 7TH PRECINCT, SHIRLEY, NY WHERE ON 01/23/13 AT 1236, 1246, AND 1256 DID REFUSE TO SUBMIT TO A BLOOD TEST.

002 PL 205.30 AM0 C RESISTING ARREST

THE DEFENDANT, AT 6 CORDWOOD PATH, SHOREHAM, IN THE TOWN OF BROOKHAVEN, SUFFOLK COUNTY, NEW YORK, ON OR ABOUT JANUARY 23, 2013, AT APPROXIMATELY 11:11 A.M., INTENTIONALLY PREVENTED OR ATTEMPTED TO PREVENT A POLICE OFFICER OR PEACE OFFICER FROM EFFECTING AN AUTHORIZED ARREST OF HIMSELF OR ANOTHER PERSON; IN THAT, WHILE ATTEMPTING TO PLACE DEFENDANT UNDER ARREST FOR THE CHARGE OF DRIVING WHILE ABILITY IMPAIRED BY DRUGS IN THAT THE DEFENDANT DID OPERATE A 1972 CADILLAC NY REGISTRATION GCA9733 IN A NORTHERLY DIRECTION ON CORDWOOD PATH WHILE IMPAIRED BY DRUGS NAMELY MARIJUANA. IT WAS OBSERVED AND NOTED THAT DEFENDANT HAD RED BLOODSHOT EYS, SLURRED SLOW SPEECH AND VEHICLE EMITTED STRONG SMELL OF MARIJUANA. DEFENDANT STATED TO YOUR DEPONENT " I SMOKED A BOWL OF MARIJUANA WITH MY FRIEND SIMON ABOUT 30 MINUTES BEFORE YOU GOT ME." " I KNOW I SHOULD NOT HAVE BEEN DRIVING, I AM ON PROBATION ALREADY" WHILE ATTEMPTING TO PLACE DEFENDANT UNDER ARREST FOR ABOVE CHARGES, DEFENDANT FLAILED HIS ARMS AND LEGS AND REFUSED TO PUT HIS HANDS BEHIND HIS BACK UNTIL HE WAS EVENTUALLY SUBDUED.

CERTIFIED
CENTRAL RECORDS SECTION
SUFFOLK COUNTY POLICE DEPARTMENT

THE DEFENDANT, AT 6 CORDWOOD ROAD, SHOREHAM, IN THE TOWN OF BROOKHAVEN, SUFFOLK COUNTY, NEW YORK, ON OR ABOUT JANUARY 23, 2013, AT APPROXIMATELY 11:11 A.M., INTENTIONALLY OBSTRUCTED, IMPAIRED OR PERVERTED THE ADMINISTRATION OF LAW OR OTHER GOVERNMENTAL FUNCTION OR PREVENTED OR ATTEMPTED TO PREVENT A PUBLIC SERVANT FROM PERFORMING AN OFFICIAL FUNCTION, BY MEANS OF INTIMIDATION, PHYSICAL FORCE OR INTERFERENCE, OR BY MEANS OF ANY INDEPENDENTLY UNLAWFUL ACT, OR BY MEANS OF INTERFERING, WHETHER OR NOT PHYSICAL FORCE IS INVOLVED, WITH RADIO, TELEPHONE, TELEVISION OR OTHER TELECOMMUNICATIONS SYSTEMS OWNED OR OPERATED BY THE STATE, OR A COUNTY, CITY, TOWN, VILLAGE, FIRE DISTRICT OR EMERGENCY MEDICAL SERVICE OR BY MEANS OF RELEASING A DANGEROUS ANIMAL UNDER CIRCUMSTANCES EVINCING THE ACTOR'S THAT THE ANIMAL OBSTRUCT GOVERNMENTAL ADMINISTRATION; IN THAT, WHILE YOUR DEPONENT WAS ATTEMPTING TO APPROACH THE DEFENDANT WHO WAS SEATED IN THE DRIVER'S SEAT OF A 1972 CADILLAC NY PLATE# GCA9733, IN RESPONSE TO A 911 CALL DETAILING A SUSPICIOUS VEHICLE IN THE AREA, AND AFTER MULTIPLE COMMANDS BY YOUR DEPONENT TO SECURE HIS DOG, A PINSCHER, THE DEFENDANT INTENTIONALLY OPENED THE VEHICLE DOOR AND DID STATE TO THE DOG, " GO GET HER." THE RELEASE OF THE ANIMAL WAS ONLY PREVENTED BY YOUR DEPONENT WHO SLAMMED THE VEHICLE DOOR SHUT BEFORE THE ANIMAL COULD EXIT SAME. THE DEFENDANT STATED TO YOUR DEPONENT, " I WAS SCARED SO I WANTED THE DOG TO GO AFTER YOU."

CERTIFIED ✓
CENTRAL RECORDS SECTION
SUFFOLK COUNTY POLICE DEPARTMENT

EXHIBIT C





EXHIBIT D

CERTIFICATE OF DEATH

STATE FILE NUMBER

RESIDENCE	1. NAME: FIRST Jack	MIDDLE Franqui	LAST IV	2. SEX: <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE	3A. DATE OF DEATH: MONTH 01 DAY 23 YEAR 2013	3B. HOUR: Approx. 6:20 P.
NCHS	4A. PLACE OF DEATH: (Check one) <input type="checkbox"/> HOSPITAL DOA <input type="checkbox"/> HOSPITAL OUTPATIENT <input type="checkbox"/> HOSPITAL INPATIENT <input type="checkbox"/> NURSING HOME <input type="checkbox"/> PRIVATE RESIDENCE <input type="checkbox"/> HOSPICE FACILITY <input checked="" type="checkbox"/> OTHER (Specify): Jail cell			4B. IF FACILITY, DATE ADMITTED: MONTH DAY YEAR		
4C	4C. NAME OF FACILITY: (If not facility, give address) Suffolk County Police Dept. 7th Prct., Shirley			4D. LOCALITY: (Check one and specify) CITY VILLAGE TOWN <input checked="" type="checkbox"/> Brookhaven		4E. COUNTY OF DEATH: Suffolk
4G	4F. MEDICAL RECORD NO.			4G. WAS DECEDENT TRANSFERRED FROM ANOTHER INSTITUTION? (If yes, specify institution name, city or town, county and state) <input type="checkbox"/> NO <input type="checkbox"/> YES		
5	5. DATE OF BIRTH: MONTH 12 DAY 14 YEAR 1986		6A. AGE IN YEARS: 26 yrs.	6B. IF UNDER 1 YEAR ENTER: months days	6C. IF UNDER 1 DAY ENTER: hours minutes	7A. CITY AND STATE OF BIRTH: (If not USA, Country and Region/Province) West Islip, NY
7A	8. SERVED IN U.S. ARMED FORCES? (Specify years) <input checked="" type="checkbox"/> 0 <input type="checkbox"/> 1			9. DECEDENT OF HISPANIC ORIGIN? Check the boxes that best describe whether the decedent is Spanish/Hispanic/Latino. <input type="checkbox"/> A No, not Spanish/Hispanic/Latino <input type="checkbox"/> B Yes, Mexican, Mexican American, Chicano <input checked="" type="checkbox"/> C Yes, Puerto Rican <input type="checkbox"/> D Yes, Cuban <input type="checkbox"/> E Yes, Other Spanish/Hispanic/Latino (Specify)		
7B	10. DECEDENT'S RACE: Check one or more races to indicate what the decedent considered himself or herself to be. <input checked="" type="checkbox"/> A White/Caucasian <input type="checkbox"/> B Black or African American <input type="checkbox"/> C Asian Indian <input type="checkbox"/> D Chinese <input type="checkbox"/> E Filipino <input type="checkbox"/> F Japanese <input type="checkbox"/> G Korean <input type="checkbox"/> H Vietnamese <input type="checkbox"/> I Native Hawaiian <input type="checkbox"/> J Guamanian or Chamorro <input type="checkbox"/> M Samoan <input type="checkbox"/> N American Indian or Alaska Native (specify) <input type="checkbox"/> P Other Asian (specify) <input type="checkbox"/> R Other Pacific Islander (specify) <input type="checkbox"/> S Other (specify)			11. DECEDENT'S EDUCATION: Check the box that best describes the highest degree or level of school completed at the time of death. <input type="checkbox"/> 1 ≤ 8th grade <input type="checkbox"/> 2 9th-12th grade, no diploma <input checked="" type="checkbox"/> 3 High school graduate or GED <input type="checkbox"/> 4 Some college credit, but no degree <input type="checkbox"/> 5 Associate's degree <input type="checkbox"/> 6 Bachelor's degree <input type="checkbox"/> 7 Master's degree <input type="checkbox"/> 8 Doctorate/Professional degree		
12	12. SOCIAL SECURITY NUMBER: 119-76-5371			13. MARITAL STATUS: <input checked="" type="checkbox"/> 1 NEVER MARRIED <input type="checkbox"/> 2 MARRIED <input type="checkbox"/> 3 WIDOWED <input type="checkbox"/> 4 DIVORCED <input type="checkbox"/> 5 SEPARATED		
15A	15A. USUAL OCCUPATION: (Do not enter retired) Cook			15B. KIND OF BUSINESS OR INDUSTRY: Food		
15C	15C. NAME AND LOCALITY OF COMPANY OR FIRM: American Red Cross			16A. RESIDENCE: (State or Country if not USA) New York		
16B	16B. County or Region/Province if not USA: Suffolk			16C. LOCALITY: (Check one and specify) CITY VILLAGE TOWN <input checked="" type="checkbox"/> Brookhaven		
16D	16D. STREET AND NUMBER OF RESIDENCE: 83 Magnolia Dr. Rocky Point			16E. ZIP CODE: 11778		
17	17. BIRTH NAME OF FATHER / PARENT: FIRST MI LAST Joaquin Franqui			18. BIRTH NAME OF MOTHER / PARENT: FIRST MI LAST Phyllis Daily		
19A	19A. NAME OF INFORMANT: Joaquin Franqui			19B. MAILING ADDRESS: (include zip code) 83 Magnolia Dr. Rocky Point, NY 11778		
20A	20A. 1 <input type="checkbox"/> BURIAL 2 <input checked="" type="checkbox"/> CREMATION 3 <input type="checkbox"/> REMOVAL 4 <input type="checkbox"/> HOLD 5 <input type="checkbox"/> DONATION 6 <input type="checkbox"/> ENTOMBMENT MONTH DAY YEAR 01 28 2013			20B. PLACE OF BURIAL, CREMATION, REMOVAL OR OTHER DISPOSITION: Washington Memorial Park Mount Sinai, NY		
21A	21A. NAME AND ADDRESS OF FUNERAL HOME: Branch Funeral Home 551 Route 25 A Miller Place, NY 11764			21B. REGISTRATION NUMBER: 00208		
22A	22A. NAME OF FUNERAL DIRECTOR: John H. Vigliante			22B. SIGNATURE OF FUNERAL DIRECTOR: 		
22C	22C. REGISTRATION NUMBER: 13688			23A. SIGNATURE OF REGISTRAR: 		
23B	23B. DATE ISSUED: MONTH DAY YEAR 01 27 2013			24A. BURIAL OR REMOVAL PERMIT ISSUED BY: Mary Pagan		
24B	24B. DATE ISSUED: MONTH DAY YEAR 01 27 2013			24C. PHONOGRAPHIC RECORD: MONTH DAY YEAR 01 23 2013		
24D	24D. TIME: 7:50 P			24E. SIGNATURE OF PHYSICIAN: 		
25A	25A. CERTIFICATION: To the best of my knowledge, death occurred at the time, date and place and due to the cause stated. Certifier's Name: Odette R. Hall, M.D. License No.: 243777			25B. If coroner is not a physician, enter Coroner's Physician's name & title: SUFFOLK COUNTY MEDICAL EXAMINER SUFFOLK COUNTY OFFICE BLDG FARMINGHAM, NY 11738		
25C	25C. If certifier is not attending physician, enter Attending Physician's name & title: Odette R. Hall, M.D. License No.: 243777			25D. If certifier is not attending physician, enter Coroner's Physician's name & title: SUFFOLK COUNTY MEDICAL EXAMINER SUFFOLK COUNTY OFFICE BLDG FARMINGHAM, NY 11738		
26A	26A. Attending physician attended deceased: Month Day Year 01 23 2013			26B. Decedent last seen alive by attending physician: Month Day Year 01 23 2013		
26C	26C. Pronounced dead: Month Day Year 01 23 2013			26D. Pronounced dead: Month Day Year 01 23 2013		
27	27. MANNER OF DEATH: NATURAL CAUSE <input type="checkbox"/> 1 ACCIDENT <input type="checkbox"/> 2 HOMICIDE <input type="checkbox"/> 3 SUICIDE <input checked="" type="checkbox"/> 4 UNDETERMINED CIRCUMSTANCES <input type="checkbox"/> 5 PENDING INVESTIGATION <input type="checkbox"/> 6			28. WAS CASE REFERRED TO CORONER OR MEDICAL EXAMINER? <input type="checkbox"/> 0 NO <input checked="" type="checkbox"/> 1 YES		
29A	29A. AUTOPSY? <input type="checkbox"/> 0 NO <input checked="" type="checkbox"/> 1 YES			29B. IF YES, WERE FINDINGS USED TO DETERMINE CAUSE OF DEATH? <input type="checkbox"/> 0 NO <input checked="" type="checkbox"/> 1 YES		
30	30. DEATH WAS CAUSED BY: (ENTER ONLY ONE CAUSE PER LINE FOR (A), (B), AND (C).) PART I. IMMEDIATE CAUSE: (A) HANGING (B) TAJIL CELL (C) HANGING			31. INJURY LOCALITY: (City or town and county and state) Shirley, Suffolk, N.Y.		
31A	31A. IF INJURY, DATE: MONTH DAY YEAR 01 23 2013			31B. DESCRIBE HOW INJURY OCCURRED: HANGING SELF		
31C	31C. PLACE OF INJURY: TAJIL CELL			31D. INJURY AT WORK? <input type="checkbox"/> 0 NO <input checked="" type="checkbox"/> 1 YES		
32	32. IF TRANSPORTATION INJURY, SPECIFY: <input type="checkbox"/> 1 Driver/Operator <input type="checkbox"/> 2 Passenger <input type="checkbox"/> 3 Pedestrian <input type="checkbox"/> 4 OTHER (specify)			33. DATE OF DELIVERY: MONTH DAY YEAR		
33A	33A. IF FEMALE: <input type="checkbox"/> 0 Not pregnant within last year <input type="checkbox"/> 1 Pregnant at time of death <input type="checkbox"/> 2 Not pregnant, but pregnant within 42 days of death <input type="checkbox"/> 3 Not pregnant, but pregnant 43 days to 1 year before death <input type="checkbox"/> 4 Unknown if pregnant within past year			33B. DATE OF DELIVERY: MONTH DAY YEAR		

For use by physician or instigator

NAME OF DECEDENT: **Jack Franqui**TIME OF DEATH: **7:50 P**DATE OF DEATH: **01-23-2013**

EXHIBIT E



**SUFFOLK COUNTY, NEW YORK
OFFICE OF THE MEDICAL EXAMINER**



REPORT OF AUTOPSY

NAME: JACK FRANQUI IV

ME#: 13-00391

AUTOPSY PERFORMED BY: Odette R. Hall, M.D.

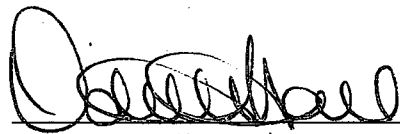
DATE: January 24, 2013

FINAL ANATOMIC DIAGNOSES

- I. HANGING WITH LIGATURE MARK**
 - A. PULMONARY CONGESTION**
- II. BLUNT IMPACT OF HEAD**
 - A. CUTANEOUS ABRASIONS**
 - B. SUBSCAPULAR HEMORRHAGE, PARIETAL, BILATERAL**
- III. BLUNT IMPACT OF TORSO WITH CUTANEOUS ABRASIONS AND SUBCUTANEOUS HEMORRHAGE, UPPER AND MIDDLE BACK**
- IV. BLUNT IMPACT OF UPPER EXTREMITIES WITH CUTANEOUS ABRASIONS AND CONTUSION**
- V. BLUNT IMPACT OF LOWER EXTREMITIES WITH CUTANEOUS ABRASIONS AND CONTUSIONS**
- VI. DIVERTICULOSIS**

CAUSE OF DEATH: HANGING

MANNER OF DEATH: SUICIDE (HANGED SELF)



Odette R. Hall, M.D.
Deputy Medical Examiner
1/30/13

Date

ORH/

**I HEREBY CERTIFY THAT THIS IS
A TRUE AND CORRECT COPY.**



OFFICE OF THE MEDICAL EXAMINER

SUFFOLK COUNTY, N.Y.

JACK FRANQUI IV

CASE 13-00391

I hereby certify that I, Odette R. Hall, M.D., Deputy Medical Examiner, have performed an autopsy on the body identified as Jack Franqui IV on January 24, 2013 at the Suffolk County Medical Examiner's Office commencing at 11:15 a.m.

EXTERNAL EXAMINATION:

General Appearance: The body is that of a well-developed, 6' 1", 234 lbs, obese (Body Mass Index: 30.9), White man whose appearance is consistent with the given age of 26 years. The head, torso and extremities are symmetrical without malformation or palpable skeletal trauma. See "INJURIES".

Postmortem Changes: There is moderate, symmetrical rigor mortis of the jaw, neck and extremities. Livor mortis is pink-purple and blanching; it is distributed over the neck, upper chest, back, and throughout the upper and lower extremities. The lividity has a lacy and blotchy pattern. The body is cool to the touch.

Head and Neck: The head, face and neck are free of conspicuous scars. The scalp hair is straight and brown; it measures up to 1" in length. The facial hair consists of a 1/2", brown mustache and beard. There are bilateral and symmetrical 1-1/2 x 1/2" clusters of pinpoint, yellow-tan papules beneath the eyes. A 1/8", erythematous macule is on the right cheek. The corneas are translucent. The irides are brown. The conjunctivae are free of hemorrhage, petechiae or jaundice. The oral cavity has an atraumatic mucosa and a complete complement of natural teeth in fair to poor repair. The tongue is free of laceration or contusion.

Torso: Linear striae are on the axillae and abdomen. A 1", linear and vertical scar, with suture marks, is on the right upper quadrant of the abdomen. A 1/2", irregular scar is on the right lower quadrant of the abdomen. A 7", linear and vertical scar, with suture marks, is on the midline of the abdomen. The chest, buttocks and anus are unremarkable.

Extremities: Five, 1/4", linear and oblique scars are on the anterior right forearm. A 1/2", irregular scar is on the anterior right wrist. Five, 1", linear and horizontal scars are on the posterolateral right forearm. A 1" scar, in the shape of a cross, is on the dorsum of the right hand. A 1/2", linear and oblique scar is on the lateral right hand. Three, 1" to 1-1/2", linear and horizontal scars are on the lateral left arm. A 3-1/2", linear and oblique scar is on the anterior left arm. Three, 1/16" to 1/8" erythematous papules are on the anterior right thigh. Two, 1/4", erythematous papules are on the posterior left leg. The interdigital spaces of the feet are flaky and show scant amounts of gray-black residue. All of the digits are present. The fingernails are short with unremarkable texture. The toenails extend up to 1/8" beyond the skin edge and have unremarkable texture.

Genitalia: The external genitalia are atraumatic and that of a circumcised adult man. The testes are descended.

I HEREBY CERTIFY THAT THIS IS
A TRUE AND CORRECT COPY.

Odette R. Hall

OFFICE OF THE MEDICAL EXAMINER

SUFFOLK COUNTY, N.Y.

JACK FRANQUI IV

CASE 13-00391

Tattoos and Adornments: A monochromatic tattoo of the words "DEATH BEFORE DISHONOR" and a polychromatic tattoo of a marijuana leaf caricature are on the mid upper back and right upper back, respectively.

CLOTHING:

The body is received wearing white socks and green, brown and black deer print camouflage underwear. The clothing is labeled with the case formation and submitted to the Crime Laboratory.

THERAPEUTIC PROCEDURES:

The body is free of therapeutic procedures or devices.

INJURIES:

There are findings consistent with hanging; and blunt impact injuries of the head, torso and extremities. The descriptions and directions are stated with reference to the standard anatomical planes with the body measured in the horizontal position. The order of description makes no implied reference to the sequence of occurrence.

FINDINGS CONSISTENT WITH HANGING

A ligature mark composed of a flat, near-circumferential pattern of discontinuous, irregular, dry, orange-brown abrasions; and blanching is around the neck. The ligature mark is centered 3/4" below the laryngeal prominence where it measures 1-3/4" in width; 1/2" below the right external auditory canal where it measures 3/4" in width; and 1-3/4" below the left external auditory canal where it measures 1" in width. The ends of the ligature mark terminate at the lateral corners of the posterior hairline. A 4" void is in the ligature mark at this point. The ends of the ligature mark are centered 1-1/2" below the external occipital protuberance.

A 1 x 1/2", blanched abrasion is at the superior aspect of the neck, below the right jaw line.

On subsequent internal examination, the paratracheal soft tissues and strap muscles are free of hemorrhage. A 1/2 x 1/4" area of hemorrhage is in the left semispinalis capitis muscle. The cervical vertebrae, hyoid bone, thyroid cartilage and tracheal cartilages are free of fractures.

Accompanying the body is a cut pair of blue jeans. The right leg of the jeans is intact. The left leg is cut off below the seat. An additional cut extends vertically through the seat of the jeans, and above the left back pocket. The jeans are labeled with the case information and submitted to the Crime Laboratory.

HEREBY CERTIFY THAT THIS IS
A TRUE AND CORRECT COPY.

Virginia Talone

OFFICE OF THE MEDICAL EXAMINER

SUFFOLK COUNTY, N.Y.

JACK FRANQUI IV

CASE 13-00391

BLUNT IMPACT INJURIES

Head: A 4 x 1-1/4" abrasion, with adherent clotted blood, is on the right cheek. Six, 1/8" abrasions are on the helix of the left ear.

On subsequent internal examination, there is a 1" left parietal subscapular hemorrhage; and two, 1" and 1-1/2" right parietal subscapular hemorrhages. The skull has no fractures. There is no epidural, subdural or subarachnoid hemorrhage. The brain is free of edema, signs of herniation, laceration, contusion or hemorrhage.

Torso: A 2 x 1-1/2" cluster of linear abrasions is on the right upper back. The chest, abdomen, buttocks and anus are free of trauma.

On subsequent internal examination, there is a 1 x 1/2" subcutaneous hemorrhage of the mid upper back; and a 1 x 1/2" subcutaneous hemorrhage in the left upper back. The clavicles, sternum, ribs, vertebrae and pelvis are free of fracture. The thoracic, peritoneal, retroperitoneal and pelvic viscera are free of trauma.

Upper Extremities: A 1/4", blue contusion is on the posterior right forearm. A 1/2", blue contusion is on the anterior left arm. Five, 1/8", pale, red and scabbed abrasions are on the posterior left arm, elbow and forearm. The upper extremities are free of palpable fractures.

Lower Extremities: A 1/2" red-brown contusion is on the medial right foot. A 5", curvilinear, red contusion is on the posterior right thigh. A 2", yellow to red-brown contusion is on the posterior right leg. Nine, 1/16" to 1-1/2" abrasions are on the left knee. A 1-1/2", faint blue contusion; and a 1/8" abrasion are on the medial left leg. Three, 1", faint blue contusions are on the posteromedial left leg. A 1/2", yellow-orange contusion is on the lateral left thigh. A 1/16" abrasion is on the medial left foot. The lower extremities are free of palpable fractures.

These injuries, having been described, will not be repeated.

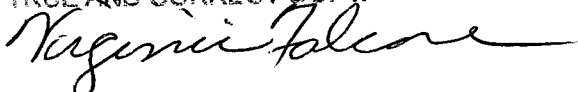
INTERNAL EXAMINATION:

Habitus: The subcutaneous adipose tissue at the umbilicus measures 4 cm in thickness.

Body Cavities: The organs are in their normal situs. The pleural cavities are free of excess fluid. The left pleural cavity shows focal posterior adhesions. The right pleural cavity is free of adhesions. The peritoneal cavity is free of excess fluid. There are adhesions of the anterior cavity, centered at the liver. The pericardial sac is free of excess fluid and adhesions. Each of the body cavities is free of erythema or exudates.

Head and Central Nervous System: The brain weighs 1475 gm. The cerebral hemispheres are symmetrical with the usual developmental patterns of sulci and gyri. The leptomeninges are thin and translucent. The intracranial vessels are free of aneurysms and atherosclerosis. The cranial

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OFFICE OF THE MEDICAL EXAMINER

SUFFOLK COUNTY, N.Y.

JACK FRANQUI IV**CASE 13-00391**

nerves are normally distributed. The brainstem and cerebellum have the usual patterns on cut surface. The cortex, white matter and deep nuclei are free of hemorrhage, and mass or cavitory lesions. The ventricles and cerebral aqueduct are patent and unremarkable in size and configuration.

Neck: The upper airway is patent and has a smooth, intact mucosa.

Cardiovascular System: The heart weighs 400 gm. There is a normal distribution of right dominant coronary arteries that are free of atherosclerosis. There are no recent thrombi. The myocardium is homogeneous and red-brown without focal areas of pallor, hemorrhage, softening or fibrosis. The thicknesses of the myocardium are as follows: left ventricle- 1.4 cm, right ventricle- 0.2-0.4 cm and interventricular septum- 1.5 cm. The endocardial surfaces are smooth. The cardiac valves and chordae tendineae are thin and pliable. The interatrial and interventricular septae are intact. The aorta is free of atherosclerosis. The vena cavae and pulmonary arteries are free of thrombi or emboli. The celiac, mesenteric and renal arteries are free of atherosclerosis or stenoses.

Respiratory System: The trachea and mainstem bronchi are patent. The trachea has a slightly erythematous and slightly granular mucosa. The bronchi have intact, smooth mucosae. The right lung weighs 850 gm; the left lung weighs 700 gm. Each lung shows normal lobation. The parenchyma is dark red and minimally crepitant; it is free of masses, hemorrhages, consolidations, obstructions, destructive emphysema, or frothy or sanguinous fluid. The pulmonary arteries and intrapulmonary branches are free of atherosclerosis.

Liver, Gallbladder and Pancreas: The liver weighs 2350 gm. The capsule is intact. The parenchyma is red-brown with slight, fine variegations. The gallbladder contains approximately 30 ml of bile and is free of stones. The pancreas is pink-beige and firm with an unremarkable lobular pattern.

Hematopoietic System: The spleen weighs 230 gm. The capsule is intact. The parenchyma is firm and uniform in color. The white pulp is prominent. The cervical and carinal lymph nodes are enlarged. The bone marrow is red-brown and uniform.

Genitourinary System: The kidneys each weigh 175 gm. Each has a nonadherent capsule; and smooth, dark red cortical surface. The corticomedullary junctions are well-defined on cut sections. The ureters maintain uniform caliber into the bladder which has a non-erythematous and smooth mucosa. There is approximately 50 ml of urine. The prostate is not enlarged.

Endocrine System: The pituitary, thyroid and adrenals are unremarkable in color, size and consistency; they are free of mass or cystic lesions.

Gastrointestinal System: The esophagus and gastroesophageal junction are patent and have smooth, intact mucosal surfaces. The stomach contains approximately 100 ml of beige, viscid fluid. The gastric mucosa and that of the intestines show the usual patterns of mucosal folding

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OFFICE OF THE MEDICAL EXAMINER

SUFFOLK COUNTY, N.Y.

JACK FRANQUI IV

CASE 13-00391

and are free of masses, ulcerations, perforations or exudates. A few diverticuli are in the distal colon. The vermiform appendix is present.

Musculoskeletal System: The musculature is unremarkable with normal distribution and development.

HISTOPATHOLOGY:

Sections are submitted for microscopic analysis; a separate report will be issued.

TOXICOLOGY:

Specimens are submitted for toxicologic analysis; a separate report will be issued.

ORH/
DRAFT: 1/24/2013
FINAL: 1/30/2013

I HEREBY CERTIFY THAT THIS IS
A TRUE AND CORRECT COPY.











EXHIBIT F

EXHIBIT G

ORIGINAL

50-H HEARING

- - - - - x

In the Matter of the Estate of

JACK FRANQUI IV,

Claimant,

-against-

THE COUNTY OF SUFFOLK, SUFFOLK COUNTY
POLICE DEPARTMENT, POLICE OFFICERS JOHN
AND JANE DOES 1-10,

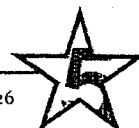
Respondents.

- - - - - x

100 Veterans Memorial Highway
Hauppauge, New York

August 21, 2013
3:06 p.m.

EXAMINATION of JOHN BURKE, a Non-Party
Witness in the above-entitled action, held at
the above time and place, pursuant to Section
50-H of the General Municipal Law, taken
before Nicole Limoncelli, a shorthand reporter
and Notary Public within and for the State of
New York.



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A P P E A R A N C E S:

THE LAW OFFICES OF ANTHONY M. GRANDINETTE
Attorneys for Claimant and
John Burke
114 Old Country Road, Suite 420
Mineola, New York 11501

BY: ANTHONY M. GRANDINETTE, ESQ.

SUFFOLK COUNTY DEPARTMENT OF LAW
Attorneys for Respondents
100 Veterans Memorial Highway
Hauppauge, New York 11788

BY: ARLENE ZWILLING, ESQ.

ALSO PRESENT:

Mirel Fisch - The Law Office of Anthony M.
Grandinette



1

2 J O H N B U R K E, the witness herein,
3 having been first duly sworn by a Notary
4 Public of the State of New York, was examined
5 and testified as follows:

6 EXAMINATION BY

7 MS. ZWILLING:

8 Q. State your name for the record,
9 please.

10 A. John Burke.

11 Q. State your address for the record,
12 please.

13 A. 95A Tuckahoe Road, Eastchester, New
14 York.

15 Q. Good afternoon, Mr. Burke.

16 A. Good afternoon, ma'am. How are you?

17 Q. I'm Arlene Zwilling, Assistant
18 County Attorney. I'm going to be conducting
19 a 50-H hearing today with respect to a Notice
20 of Claim filed by the family of Jack Franqui.
21 What that means is I'm going to be asking you
22 some questions about the events mentioned in
23 that Notice of Claim which I would like you
24 to answer.

25 A. Sure.



1 JOHN BURKE

2 Q. If for any reason you don't
3 understand one of my questions, let me know
4 that and I will rephrase the question so that
5 it is clear to you.

6 A. Okay.

7 Q. There's two things I would ask you
8 to keep in mind before we begin with the
9 questions. One is: Even if you think you
10 know what the question is going to be, allow
11 me to finish my question before you begin
12 your answer. It's the job of the court
13 reporter that you see here to take down
14 everything that's said in the room
15 accurately. If two people speak at the same
16 time, it makes it very difficult for her to
17 take down everything that's being said
18 accurately.

19 The other thing I would ask you to
20 keep in mind is that when you're responding
21 to question, please speak your answer instead
22 of just nodding your head yes or no?

23 A. Okay.

24 Q. The reporter can only take down
25 spoken words. She cannot obviously take down



1 JOHN BURKE

2 nods of the head.

3 A. Yes.

4 Q. Now, before we went on the record,
5 Mr. Grandinette indicated that he was
6 appearing for you and that we should send him
7 the transcript of your testimony for him to
8 forward to you.

9 A. Yes.

10 Q. That's agreeable to you?

11 A. Yes.

12 Q. Just so you know, what we do is:
13 Once the reporter prepares the transcript and
14 gets it to us, we do have the witness review
15 it. So we will forward it to
16 Mr. Grandinette, he will forward it to you,
17 and you will have an opportunity to review
18 it --

19 A. Okay.

20 Q. -- and sign it.

21 How did you learn of this hearing?

22 A. This -- the deposition?

23 Q. Yes.

24 A. I was contacted by Mr. Grandinette.

25 Q. When did Mr. Grandinette contact



1 JOHN BURKE

2 you?

3 A. This is a few weeks ago. After I
4 spoke to the ADA, I believe in the same
5 building, he mentioned a deposition would be
6 next, and now I was contacted by his office
7 saying that today is the date of the
8 deposition.

9 Q. You mentioned an ADA that you spoke
10 with. Who is the ADA?

11 A. I can't think of his name, and also
12 a Detective Lane (phonetic) was present at
13 this meeting. This was about three weeks ago
14 I would say, probably a little more. But the
15 ADA, I can't think of his name off the top of
16 my head.

17 Q. Where did this meeting take place?

18 A. I believe it was in this building,
19 the Dennison Building.

20 MS. ZWILLING: Mr. Grandinette,
21 are you --

22 MR. GRANDINETTE: Sure. I'll
23 provide that. By counsel, it was in
24 the DA's office in Hauppauge across
25 the street.



1 JOHN BURKE

2 THE WITNESS: Okay, across the
3 street.

4 MR. GRANDINETTE: I'll provide
5 you with the names of the Assistant
6 District Attorney and the detective.
7 His name was Detective Lane.

8 MS. ZWILLING: Is that a
9 Suffolk County Police Detective or
10 from some other agency?

11 MR. GRANDINETTE: Suffolk
12 County Detective employed by the
13 Suffolk County DA's office. To my
14 understanding, he's not a Suffolk
15 County police officer. He's a County
16 employee retained by the Suffolk
17 County DA's office.

18 MS. ZWILLING: You don't have
19 the ADA's name offhand?

20 MR. GRANDINETTE: ADA Todd
21 Pettigrew, P-E-T-T-I-G-R-E-W.

22 MS. ZWILLING: Thanks.

23 MR. GRANDINETTE: And it's
24 Directive Richard Lane.

25 MS. ZWILLING: Can we go off



JOHN BURKE

the record for a moment?

(Whereupon, a discussion was held
off the record.)

Q. Now, the meeting that you referred
to, was anyone present at the meeting other
than you, the ADA and the detective?

A. Yes. Anthony Grandinette, my
counsel, and also a Mr. Bobby Leak
(phonetic).

Q. Who is Bobby Leak?

A. He's employed by Mr. Grandinette.

Q. Had you requested this meeting?

A. No. I received a phone call from
Detective Lane about a week before that and
he requested that I meet with them. And then
I informed Mr. Grandinette's office and he
advised me that it would be good to have
counsel during this meeting.

Q. Now, how did Detective Lane contact
you?

A. He -- I'm on probation, so he
contacted my probation officer who's located
in Queens and left a message with her. Her
name is Officer Cantres, C-A-N-T-R-E-S, and



JOHN BURKE

1

2 she in turn contacted me.

3

Q. Had you ever had contact with
4 Detective Lane before?

5

A. Never before, no.

6

Q. Had you ever heard of his name
7 prior?

8

A. Never, no.

9

Q. When were you informed of Detective
10 Lane's contact by your probation officer?

11

A. I don't know. The date of the
12 meeting was -- it was about a week before the
13 date I called. The day my probation officer
14 let me know he called, I called him
15 immediately. Sometime in mid-July, I don't
16 know the exact date. But I called him and
17 spoke to him for about five to ten minutes,
18 and he requested that I meet with them,
19 himself and the ADA to go over what happened
20 that day.

21

Q. Meet with the probation officer?

22

A. No, meet with -- meet with Detective
23 Lane himself and the ADA Mr. Pettigrew,
24 whatever his -- so then I said okay, no
25 problem. I let Mr. Grandinette's know --



JOHN BURKE

Grandinette's office know, and then they advised me that it would be a smart thing to meet with them, but meet with them with counsel.

Q. Did you pay Mr. Grandinette or his office for going to the meeting with you that day?

A. No, I did not.

Q. Have you been asked to pay?

A. No.

Q. Is it your understanding that you need to pay for that service?

A. No, I have not been asked to pay.

Q. When for the first time did you have contact with Mr. Grandinette or someone from his office?

A. That would be back in -- I believe that would be back in April sometime. When I was released, I called Jack's father who, also goes by the name of Jack, and I told him what had happened and I said do with this information as you will, gave him my information. And he obtained counsel with Mr. Grandinette and I came in with -- to tell



JOHN BURKE

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2 my -- well, what happened, explain what
3 happened.

4 Q. You mentioned you called
5 Mr. Franqui's father when you were released.
6 What is the release you're talking about?

7 A. When I was released from jail in
8 Yaphank.

9 Q. Do you know when it was that you
10 were release from Yaphank?

11 A. I was released March 22nd.

12 Q. How long had you been in Yaphank
13 for?

14 A. I was there for six weeks. Prior to
15 that, two weeks in Riverhead.

16 Q. Now, before you met with Detective
17 Lane a few weeks ago, had you ever spoken
18 directly to him?

19 A. No, only -- no, before I spoke to
20 him when I got the message, I called him
21 immediately and I spoke to him I'd say for a
22 duration of about ten minutes on the phone.

23 Q. What did the two of you speak about
24 at that time?

25 A. He just basically wanted to know,



12
JOHN BURKE

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2 you know, if I would meet with them and tell
3 my side, you know, what happened that day.
4 He said he wanted to get to the truth about
5 what happened, and like I said, I said okay,
6 no problem. And that was about it. It
7 wasn't really, you know -- he didn't go into
8 details what happened that day on the phone.
9 It was just basically I want to meet you,
10 we'll come in and meet you and so on and so
11 forth. I said okay, no problem, I'll be
12 willing to help in any way I can.

13 And then I advised Mr. Grandinette,
14 his office that they got in touch with me,
15 and then he said okay, it would be better if
16 you had some representation while you meet
17 them, so... So then we met obviously across
18 the street, I thought it was this building,
19 but across the street the following week.

20 Q. Now, when you had that first
21 conversation with Detective Lane, did you
22 discuss the incident at all that day?

23 A. No, I mean, obviously it was
24 discussed in, you know -- but it wasn't
25 discussed in detail. It was just, you know,



13
JOHN BURKE

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2 obviously this is a tragic event, what
3 happened. And he basically said just come
4 in, tell the truth, tell what happened that
5 day, that's all we need you to do. And
6 that's what I did.

7 Q. Now --

8 A. That was -- the only time I spoke to
9 him was the day I returned his call.

10 Q. When for the first time did you
11 actually have direct contact with
12 Mr. Grandinette, either in person or by phone
13 or --

14 A. First time I had contact with him
15 was I believe when Jack Franqui, Sr. obtained
16 his counsel. I believe he left me a voice
17 mail saying that he wanted to talk to me,
18 which I didn't get back to. But the first
19 time I had any contact with him was that
20 first time I had met him, which I believe was
21 some time in April.

22 Q. Of this year?

23 A. Yes.

24 Q. How many times before today have you
25 met with Mr. Grandinette?



1 JOHN BURKE

2 A. I met with him that day and then I
3 met with him a few weeks ago when we had the
4 meeting with the ADA.

5 Q. Did he give you any papers to sign?

6 A. No, he did not.

7 Q. Did he take any written statements
8 from you?

9 A. Yes, he did, the initial meeting.

10 Q. How many statements were taken?

11 A. I don't know how many pages it was,
12 but it was two pages, two and a half pages,
13 two pages. I just told him what happened
14 that day, what transpired, and he wrote it
15 down as I spoke.

16 Q. Did you sign it?

17 A. I do not believe I did. I don't
18 think I did, no.

19 Q. Did you get a copy --

20 A. I could be wrong, but I don't think
21 I did.

22 Q. Did you get a copy of it?

23 A. I've seen it since, but I did not
24 get a copy. I mean, I know exactly what
25 happened. It's in my head. I know what I



1 JOHN BURKE

2 said.

3 MR. GRANDINETTE: I'll be more
4 than happy to mail you a copy. I
5 don't have a copy of the statement.

6 MS. ZWILLING: That's fine.
7 You can mail it to us.

8 Q. Were any of your discussions tape
9 recorded as far as you know?

10 A. No, they were not.

11 Q. What about when you met with
12 Detective Lane and the ADA, did they take any
13 statements or writings from you?

14 A. I don't believe I saw them writing.
15 What they were basically asking me was
16 questions that I gave on my original
17 statement, which I believe you have before
18 you, to the detectives that evening of the
19 incident. So I know they were just asking me
20 questions, but I don't recall -- I don't --
21 they didn't write -- they weren't writing
22 anything down.

23 Q. Did they have you sign anything?

24 A. They did not.

25 Q. Did they tape record any



1 JOHN BURKE

2 conversations you had with them to your
3 knowledge?

4 A. To my knowledge, no.

5 Q. Now, has Mr. Grandinette or his
6 office ever represented you in connection
7 with anything other than this matter?

8 A. No, ma'am.

9 Q. When and where were you born?

10 A. I was born December 1st, 1977 in
11 Stamford, Connecticut.

12 Q. How long have you lived at your
13 present address for?

14 A. Only a few months. It's temporary.

15 Q. When you call it temporary, is it
16 your intention to return to a somewhat
17 permanent residence?

18 A. No. I am currently without
19 permanent residence, so I am just kind of
20 staying with somebody. And before that, I
21 was staying in a men's shelter, to be honest
22 with you, in Manhattan. My apartment was
23 lost.

24 Q. Who is it that you're saying with
25 now?



1 JOHN BURKE

2 A. It's an uncle and aunt.

3 Q. From how long have you lived in the
4 State of New York for?

5 A. I moved to the State of New York in
6 1989 from Massachusetts. I was about
7 11 years old.

8 Q. How long have you lived on Long
9 Island for?

10 A. I lived in East Meadow from '89 till
11 about 2001. And then I lived -- I got an
12 apartment in Suffolk County, actually
13 Lindenhurst for about six months. Then from
14 there I moved to -- I moved to the Yonkers
15 area to a different apartment.

16 Q. Now, you mentioned a probation
17 officer. Are you currently still on
18 probation?

19 A. Yes, ma'am.

20 Q. How long is your probation?

21 A. Five years.

22 Q. How far into the five years are you
23 now?

24 A. I'm in my first year.

25 Q. For what charge are you on



1 JOHN BURKE

2 probation?

3 A. Well, my legal counsel told me to
4 take the Fifth Amendment on that. I'd rather
5 not discuss that.

6 MS. ZWILLING: On the charge
7 that he was convicted of? I'm not
8 going to ask him the particulars of
9 it. I just want to know what the
10 conviction was.

11 MR. GRANDINETTE: His defense
12 attorney requested that.

13 I don't see a problem with you
14 stating the nature of the charge
15 itself, but then you can invoke the
16 Fifth, but I don't want to --

17 MS. ZWILLING: I have no
18 intention of asking him about the
19 particulars of the charge. I just
20 want to know what the conviction was
21 for.

22 MR. GRANDINETTE: You want us
23 to just supply that to you?

24 MS. ZWILLING: Yes, but if he
25 could just tell me what charge he



1 JOHN BURKE

2 pled guilty to or got convicted of,

3 I'm going to move on from there.

4 That's the only information I need.

5 A. It's endangering the welfare of a
6 minor, a child. That was...

7 Q. Did you plead guilty or were you
8 convicted by the court?

9 A. I took a plea.

10 Q. In what court?

11 A. This was in Suffolk County Court.

12 Q. Do you know which court?

13 A. It was Judge Barbara Kahn
14 (phonetic). I guess it would be criminal
15 court.

16 Q. In Riverhead or Central Islip?

17 A. This was in Riverhead.

18 Q. Do you know when it was that you
19 gave the guilty plea?

20 A. It was about 11 days before my
21 release date, so that would make it March --
22 I think like March 11th.

23 Q. You're referring to your release
24 date from Yaphank?

25 A. That was -- yeah, my release date



1 JOHN BURKE

2 was March 22nd and I did my plea about
3 ten days before that. But I remember because
4 the lawyer said I had ten days to go to
5 complete my 60 days, so that must have been
6 about March 12th or March 11th.

7 Q. Since you seem to have the dates at
8 your fingertips, if you can trace out for me
9 how you came -- when and where you came into
10 custody and where you were until you were
11 released from Yaphank.

12 A. I was arrested on January 23rd by
13 Suffolk County detectives.

14 Q. Where were you arrested?

15 A. I was in Brooklyn, New York.

16 Q. Okay.

17 A. From there I was escorted to the 7th
18 Precinct in Shirley. Then later on that
19 night after the incident I was escorted to
20 another precinct. I'm not sure which one.

21 Q. Do you know where it was?

22 A. Somewhere in Suffolk, 20 minutes
23 away, but I'm not sure what precinct. Then
24 from there I went to Riverhead.

25 Q. When you say went to Riverhead,



1 JOHN BURKE

2 you're talking about the jail?

3 A. Yes.

4 Q. Okay.

5 A. I was there for about two weeks.

6 Then from there I was transferred to Yaphank
7 and I was there for six weeks.

8 Q. Now, what were the charges for which
9 you were arrested? I don't need to know the
10 particulars. I just want to know what you
11 were charged with at that time.

12 A. Well, I mentioned the charge.

13 Q. That was the same charge?

14 A. Yes.

15 Q. You were continuously in custody
16 from the time you were arrested until you
17 were released from Yaphank?

18 A. Yes, ma'am.

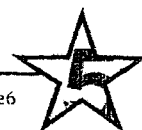
19 Q. Now, were you charged with any
20 parole violation in connection --

21 A. No.

22 Q. So you were being held purely on the
23 arrest charges?

24 A. Yeah, yeah.

25 Q. Are there any other criminal charges



1 JOHN BURKE

2 pending against you at this time?

3 A. No.

4 Q. Are there any open probation
5 violations against you?

6 A. No.

7 Q. Do you happen to know how it worked
8 out that you got a probation officer in
9 Queens instead of on Long Island?

10 A. Because I don't reside on Long
11 Island and I reside -- when I got out, I was
12 staying in Queens. So the judge, Judge Kahn
13 transferred my case to Queens.

14 Q. What was your address in Queens that
15 you were staying at at that time?

16 A. I believe it was 34-10 South Conduit
17 Avenue, Jamaica, Queens.

18 Q. When was the last time you were
19 staying there?

20 A. About -- I'd say about five weeks
21 ago.

22 Q. Was us your current marital status?

23 A. I'm single.

24 Q. Have you ever been married?

25 A. No, I have not.



1 JOHN BURKE

2 Q. Do you have any children?

3 A. No, I do not.

4 Q. How far did you go in school?

5 A. High school graduate.

6 Q. From where?

7 A. East Meadow High School, class of
8 '96. And a little bit of community college,
9 Nassau Community.

10 Q. Have you ever been convicted of
11 anything other than the charge that you just
12 mentioned?

13 A. I had a misdemeanor DWI about
14 ten years ago in 2003.

15 Q. Anything else?

16 A. That's it.

17 Q. Have you ever met Jack Franqui, Sr.
18 face to face?

19 A. Yes, I have.

20 Q. On how many occasions?

21 A. I'd say about four.

22 Q. What are the circumstances under
23 which you met him?

24 A. Well, I met him the first time when
25 he picked me up to go to see Mr. Grandinette



1 JOHN BURKE

2 for that initial meeting. I've seen him --
3 he was -- I met him when I was here for
4 meeting the ADA a few weeks ago. And then
5 one time he actually drove me out to court
6 for my case.

7 Q. That was for your own court
8 appearance?

9 A. Yeah. I was stuck for a ride and I
10 had to go out there, and I called him and he
11 was nice enough to drive me there and drive
12 me back, dropped me off at the train.

13 Q. Have you met any other members of
14 the family?

15 A. No, I have not.

16 Q. Have you ever met Earl Simon
17 (phonetic) or Simon Earl (phonetic) or
18 someone with a similar name?

19 A. My initial time at Mr. Grandinette's
20 office, I believe he was in the office. He
21 walked by me, but there was no pleasantries
22 exchanged or anything. I did not speak to
23 him.

24 Q. Do you know anything about him?

25 A. I know he was there when Jack was



1 JOHN BURKE

2 arrested. I know a little bit of the details
3 about that situation.

4 Q. How did you learn that?

5 A. I learned that through discussion
6 with Jack Franqui, Sr. He mentioned that to
7 me.

8 Q. Was there --

9 A. During -- well, I'm getting ahead of
10 myself, but during my conversation with Jack,
11 Jr. he mentioned for me to tell his father to
12 talk to Simon because Simon was there and he
13 knew what happened. So I knew of him from
14 Jack, Jr.

15 Q. Did Jack, Jr. ever tell you anything
16 about the events leading to his arrest?

17 A. He mentioned to me that he was
18 arrested for an expired inspection and, you
19 know, he was very upset. And he was saying
20 how -- how am I in jail for an expired
21 extension -- inspection, excuse me. That he
22 was telling me a few times to, you know, tell
23 my dad to talk to Simon, Simon was there,
24 Simon knows what happened, you know. He
25 mentioned that to me a few times, make sure



1 JOHN BURKE

2 to tell my dad to talk to Simon. So that's
3 when I first heard the name of Simon. I did
4 not know his last name.

5 So what was the initial question
6 again? I'm sorry.

7 MS. ZWILLING: Do you want to
8 read back the question?

9 (Whereupon, the record was read by
10 the reporter.)

11 A. Yeah. Well, again, yeah. He was
12 mentioning the expired inspection and then he
13 was going on about how the cops mistreated
14 him, how he was sore, and he kept on
15 mentioning how a female officer -- not by
16 name, just a female officer at the scene of
17 the arrest planted something on him, like
18 weed or something. And he was saying that
19 the cops were out for him, they were out for
20 me, they were out to get him.

21 I had no -- I never met him before
22 until that day, so I had no idea what he was
23 talking about or what he was referring to,
24 that the cops were out to get him and all
25 that. I mean, I do now know currently,



JOHN BURKE

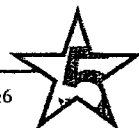
presently about his previous run-in, but that's what he was talking about, what led to his arrest, that they were out to get him, that he had an expired inspection sticker, the charges were bogus, they were just out to get him and that they mistreated him during the time of the arrest physically.

Q. Now, you he mentioned the name Simon. Were there any other names he mentioned?

A. No other names, no. He mentioned Simon, and he was talking about his dog, how his dog was -- they -- the dog ran away or something like that. He was very upset about that. But as far as any names goes, Simon was the only name he mentioned during the arrest. Then the other person he spoke about was his father.

Q. Did he give you any details about how he said the police mistreated him?

A. He basically said they roughed him up, that they roughed him up during the arrest. Again, he kept on talking about how they were out to get him. They were out to



JOHN BURKE

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2 get me, I shouldn't be here for an expired,
3 you know, inspection sticker, how am I in
4 jail for an inspection sticker, you know,
5 being expired. And he was just mentioning
6 how like during the arrest they kind of got
7 physical with him and they roughed him up and
8 they were out to get him, and this was during
9 the process of him yelling out for medical
10 attention which I'm sure you'll ask me about.
11 But that's what he mentioned about the
12 arrest.

13 Q. Can you --

14 A. He --

15 Q. I'm sorry.

16 A. Go ahead.

17 Q. You used the term roughed up. Did
18 he say they beat him, they hit him, they
19 kicked him? Did he give you any details of
20 that nature?

21 A. He said they -- he mentioned that
22 they roughed him up and that his -- he was
23 sore on his -- so, I mean... But I hear
24 someone say they got roughed up, obviously
25 it's physically. I mean, punching him or,



JOHN BURKE

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2 you know, just being rough with him.

3 Q. Well, did he tell you exactly what
4 he meant by that?

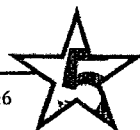
5 A. He said basically like they just
6 roughed me up, they roughed me up, I'm
7 hurting now, I'm sore. Whether he said now
8 or not if he -- if they punched him or not, I
9 don't recall if he said that. But he just
10 said that they roughed him up, they
11 mistreated him.

12 Q. Now, did he give you the name of the
13 woman officer who he said planted something
14 on him?

15 A. No, he did not. He just said a
16 female officer. He did not give a name.

17 Q. Did he say what it was she planted
18 on him?

19 A. He said it was marijuana, and he
20 also said that she -- being that he was on
21 probation, that she asked him when was the
22 last time you smoked marijuana. Now, this is
23 January 23rd and he said he answered
24 January 9th. So then she said -- in response
25 to that she said oh, good, it will still be



1 JOHN BURKE

2 in your system then, you know, this way
3 you'll get violated or, you know, but he
4 mentioned that. He was saying he had nothing
5 on him and that she planted something in his
6 right pocket.

7 Q. This is what he told you?

8 A. This is what he told me. He said
9 that over and over again.

10 Q. Did you ever talk to Simon or any
11 members of his family?

12 A. No, I have not.

13 MS. ZWILLING: Can you mark
14 that, please?

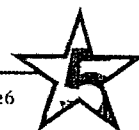
15 (Whereupon, a two-page handwritten
16 statement was marked as Respondents'
17 Exhibit A, for identification, as of
18 this date.)

19 Q. How did you get to this office
20 today?

21 A. I was picked up by Mr. Bobby Leak
22 who I previously mentioned who is employed by
23 Mr. Grandinette.

24 Q. Where did he pick you up from?

25 A. He picked me up from that address I



1 JOHN BURKE

2 gave you.

3 Q. I'm sorry. Which address?

4 A. 95A Tuckahoe Avenue.

5 Q. Can you just take a look at this
6 document that's been marked as Exhibit A?

7 A. Okay (perusing).

8 MR. GRANDINETTE: Do you happen
9 to have an extra copy of that?

10 MS. ZWILLING: I'll make you
11 one.

12 A. Yes, this is my statement.

13 Q. When you call it your statement, do
14 you know where you were when you gave this
15 statement?

16 A. I was in the 7th Precinct in Shirley
17 where the incident occurred.

18 Q. Do you know where in the 7th
19 Precinct you were?

20 A. I was out of the cell. They
21 transferred -- after this happened, they
22 transferred me to another cell across the
23 hallway. I believe it was the women's side
24 of the holding cells. And then two
25 detectives came and they put me into the



1 JOHN BURKE

2 interrogation room.

3 Q. Do you know who you gave the
4 statement to?

5 A. I do not know their names. I just
6 know -- physically I can describe them, but I
7 do not know their names. I can't really tell
8 by the signature at the bottom (perusing).

9 Q. If you look at the second page,
10 there seems to be a notary public stamp in
11 the name of Alfred Sitcoto (phonetic).

12 A. Notary public (perusing). Okay.

13 Q. Do you see that?

14 A. I do.

15 Q. Do you know if Mr. Sitcoto was one
16 of the detectives that was present?

17 A. I see a signature here, so I do
18 not -- I did not get their names, no.

19 Q. There were two detectives?

20 A. There were two detectives.

21 Q. They were both in plain clothes?

22 A. Yes, they were in suits.

23 Q. Did they identify themselves to you
24 at that --

25 A. Yeah, they had detectives -- they



1 JOHN BURKE

2 had their badges and, you know, they said
3 they were here to ask me questions about what
4 happened.

5 Q. You just don't recall their names?

6 A. I just don't recall their names.

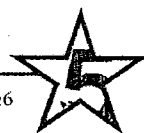
7 Q. Did you speak with both of them?

8 A. Yes, they were both present. One
9 directive did the questioning and who -- the
10 detective who did the questioning also wrote
11 the statement as I was talking. The other
12 detective just sat there, you know, he wasn't
13 involved, but they were both present.

14 Q. Did you review the statement before
15 you signed it?

16 A. I believe I did very quickly
17 (perusing). I believe so. Yeah, I did. He
18 read it back to me and I signed it. You
19 know, this happened very shortly after
20 this -- this occurred, so my mind was of
21 kind, you know... I just saw someone commit
22 suicide in front of me, so I was a little,
23 you know... But I remember he did read it
24 back to me and I signed it.

25 Q. Would you mind spending a moment to



JOHN BURKE

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2 read it now? Because I'm going to want to
3 ask you about its completeness and accuracy.

4 A. Do you want me to read it out loud
5 or?

6 Q. Read it to yourself.

7 A. (Witness perusing.) Yeah, I know.
8 I know exactly what happened here, so...

9 Q. Is the statement that's marked as
10 Exhibit A accurate to the best of your
11 recollection?

12 A. There's some timings here that I
13 think are not exactly correct, but as far as
14 the location of where he was and where I was
15 and what happened as far as what was said
16 between us is correct.

17 Q. Do you want to point out to me what
18 in the statement you feel is not correct?

19 A. It says today I arrived at the 7th
20 Precinct at 2:10 p.m. I was arrested at noon
21 that day and I believe I was there a little
22 before 2:10. And there's a part where it
23 says about 20 minutes later he hung himself
24 after they cut down -- after they cut down
25 the shirt. So that was --



JOHN BURKE

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2 Q. Where in the statement are you now?

3 A. On the second page.

4 Q. If you could just point me to --

5 A. Second paragraph.

6 Q. Okay.

7 A. About 20 minutes later or a
8 half-hour later I heard this guy say that's
9 it. I believe that was -- I think that
10 was -- that was a longer time before between
11 them cutting down his T-shirt and walking out
12 than actually -- then he hung himself. I'd
13 say it was closer to about an hour.

14 Q. Let me make sure I understand this
15 correctly.

16 A. Forty-five minutes to an hour.

17 Q. You are saying that you think it was
18 closer to an hour between when the T-shirt
19 was cut down and Mr. Franqui hung himself?

20 A. Yeah, yeah. It wasn't 20 minutes.

21 Q. Did you notice that when you signed
22 the statement?

23 A. I did not. I didn't -- I noticed
24 this. I did mentioned this when I was
25 meeting with the ADA. So it's on record that



JOHN BURKE

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2 I did mention that, this -- the time dispute
3 as well.

4 Q. Do you know what time you actually
5 arrived at the 7th Precinct?

6 A. Well, I was arrested on noon
7 exactly. I'd say I got there around -- I
8 mean, the time wouldn't be too far off, but
9 I'd say I got there around 1:30 to 2:00.

10 Q. Were you wearing a watch that day?

11 A. I was.

12 Q. Now, you were in a cell at some
13 point?

14 A. I was brought directly to the
15 rear -- to the rear of the precinct where all
16 the cells were.

17 Q. Were you put in the cell as soon as
18 you got there?

19 A. Yeah, when I got there and the
20 detective who brought me there, his name was
21 Detective Forestill (phonetic), he put me in
22 the rear. I was in cell three, Jack was in
23 cell one. And he had to go testify at some
24 court hearing for some other case. So he
25 said oh, I'll have you sign your confession,



1 JOHN BURKE

2 you know, when I come back later on. That
3 wasn't until the evening that he returned
4 when everything had already taken place.

5 Q. Now, when you were put in the cell,
6 were you still wearing your watch in the
7 cell?

8 A. I believe they took that off of me.
9 They did take it off of me.

10 Q. Did you have a cell phone or
11 anything else on you --

12 A. No.

13 Q. -- at that point that you could use
14 to tell time?

15 A. No, no. They confiscated
16 everything.

17 Q. Was there a clock that you could see
18 in the area so you would know what time it
19 was?

20 A. No, there was not.

21 Q. So would it be fair to say that when
22 you speak about times, these are estimates?

23 A. These are -- these are estimates,
24 yes. But there was a video. There is a tape
25 of this, so that will show the correct time



JOHN BURKE

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2 that lapsed between the events that happened
3 that day.

4 Q. I understand what you're saying.
5 I'm just inquiring whether you had anything
6 to check the time against.

7 A. I did not, no.

8 Q. Now, you mentioned a video. Have
9 you seen this video?

10 A. I have not.

11 Q. How did you learn of this video?

12 A. Well, there were cameras looking
13 into each cell. Again, I was in cell three,
14 Jack was in cell one. There are cameras that
15 were directly across the hall looking into
16 each cell. They had a reflective mirror I'd
17 say about a foot wide. And I know because
18 when -- at one point Jack tied his T-shirt
19 to -- he took his T-shirt off and tied up his
20 T-shirt to the bars of the cell to make a
21 noose and he had it up there very quickly,
22 and the cop came running in and cut it down,
23 you know. So they saw him on the camera
24 doing this and they just cut it down and told
25 him to -- excuse my language, to cut the



JOHN BURKE

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2 shit, you know, and just walked out.

3 Q. You mentioned that you had been
4 brought into the precinct by a Detective
5 Forestill who left?

6 A. Yes.

7 Q. Did you ever have further contact
8 with him?

9 A. Later on that evening when he
10 returned.

11 Q. What was your contact with him that
12 evening?

13 A. Basically he came back after all
14 this transpired and he had me sign my
15 confession at that time. And then from there
16 they transferred me -- he drove me personally
17 in his car, I was in the passenger seat in
18 cuffs, and he took me to another precinct
19 that night. I don't know which precinct it
20 was, but he took me to another precinct where
21 I spent the night in.

22 Q. You mentioned you signed a
23 confession. Was this a confession to the
24 crime you had been charged with?

25 A. This was the crime that I was



1 JOHN BURKE

2 arrested for, yeah.

3 Q. Did you sign it voluntarily?

4 A. I signed it voluntarily, you know.

5 Again, I had -- I don't even really know what
6 I signed because I was still numb from what I
7 just went through.

8 Q. Now, you mentioned some sort of
9 reflective mirror?

10 A. Yes. Over each camera that was
11 looking into the -- each camera -- again,
12 each cell had a camera across the hall in the
13 corner there looking into each cell and a --
14 there was a reflective mirrored plate that
15 was over each camera. I'd say it was about a
16 foot wide.

17 Q. So there was one camera for each
18 cell?

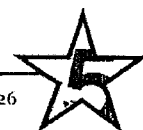
19 A. For each cell.

20 Q. How many cells were there?

21 A. From my recollection, there was six.

22 Q. The reflective mirrors that you
23 mentioned, were they mounted directly above
24 the camera?

25 A. No, they were directly like over --



JOHN BURKE

over the cameras. It was like -- like a shield, you know, but it was over the camera itself.

Q. Were you able to tell what the purpose of the reflecting mirrors were?

A. I don't know what the purpose of that was.

Q. Was this like the kind of mirrors that are sometimes used so you can see around a corner or are you referring to --

A. No, I can see -- I can see the camera behind it, but I was just -- but you could see. Like it was so wide, just at the angle that it was, you could see the reflection. So I could see into Jack's cell from that reflection.

Q. From the --

A. From the mirror that was -- from the mirrored camera that was facing into my cell I could see into -- the cell was here, here's cell three and cell one was here and then cell two between us (indicating). And then I could see because it was so wide, the mirror, you know, I could see like right into his



JOHN BURKE

cell and he could see into mine.

Q. If you looked at the mirror from in your cell, were you able to see all of the inside of his cell or just part of it?

A. I was able to see the entire -- the entire front of his cell and into it a little bit. And, I mean, I basically saw him hanging there in that reflection when this -- when it happened.

MR. GRANDINETTE: If I may, you're using the word mirror. Is it a mirror or is a reflective glass cover?

THE WITNESS: No, it's like a Plexiglas cover I should say.

A. Yeah, maybe I'm using the wrong term mirror there, but it was bright enough and shiny enough though where I could see a reflection. It was kind of like almost slightly mirrored, but like -- what can I say? Like if you see sunglasses that get a little dark during the sun but you can still see through, like it --

Q. Did it have some sort of reflective



JOHN BURKE

coating on it?

A. Yeah. I would say, yeah, yeah. But you could still see through it. It wasn't -- it wasn't like one of those two-way mirrors you would see in an interrogation room or something like that where you couldn't see through. It was just like dark. It was like slightly tinted dark, dark enough where you could still see the camera behind it and you could still see the reflection, you know, of whatever angle it was facing. It just happened to be I could see right into Jack's cell from -- from -- again, I was in cell three, he was in cell one, so it was like the perfect position. If I was in any cells further down, I wouldn't have been -- I wouldn't have been able to see.

Q. Were you able to see into any of the other cells from your cell?

A. I can see into cell one and I believe I could see into cell two.

Q. Were you able to see if there were any people in that cell?

A. Yeah. There was no one in that



JOHN BURKE

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2 cell, because when I first came in, I saw
3 Jack and then cell two was empty because I
4 looked, and then I was in cell three. And
5 then there was, you know -- there was no one
6 else in four, five or six.

7 Q. Were there ever any other prisoners
8 in any of the cells the entire time you were
9 there?

10 A. No, there was not.

11 Q. Just you and Jack?

12 A. Just me and Jack.

13 Q. Other than the two times that you've
14 mentioned, is there anything else in your
15 statement that's inaccurate?

16 A. There was one part when I remember
17 reading (perusing). There's a part where I
18 said -- on the second page about five lines
19 up where it says I heard a loud bang, the guy
20 said he hit his head against the wall, he
21 said that it hurt. That came before he said
22 that's it, because he did that when he put
23 his T-shirt up and tied it into a noose,
24 which, again, they'll show all of this on the
25 tape, the cop came in, he cut it down and



JOHN BURKE

said, you know, cut it out.

I think he thought that they were looking at him, so he wanted -- he was screaming for medical attention this whole time that I was in there with him, you know. Originally a cop did come in and say, you know, what are you yelling about, you know. He said -- he was polite and courteous. He said listen, I need medical attention, I need medical attention, you know, and the officer said well -- the officer's response was well, if we bring you to a hospital, we're just going to bring you right back, kind of like what's the point, you know. And he asked can I speak, you know -- please speak to your sergeant, you know. And the cop said, okay, I'll get my sergeant. And then he walked out and he never came back with a sergeant.

So the next -- during this whole process, Jack is screaming at the top of his lungs I need medical attention, I need medical attention, I'll be leaving here in a body bag, you know, if you don't get me medical attention. And he's screaming this



JOHN BURKE

at the top of his lungs several times, you know. And I know that they could hear us because I could hear them chitchatting outside, you know, the police officers talking to each other. So I mean, if I could hear them talking a regular tone of voice, I knew they heard him screaming his lungs out.

And so during the whole process of me talking to him, he just kept on yelling that out, I need medical attention, I'll be leaving here in a body bag. And when I say yelling, I mean he was howling, you know. And so...

But going back to your initial question, yeah, the part where he said -- where he bangs his head against the wall, he did that after the officer cut his shirt down because I believe that he thought they could see him and he wanted to get some attention. So he hit his head against the wall, he put his head down the toilet, you know. And they left him there shirtless because they take his shirt away, they took the piece of the blanket that I gave him away and they walked



JOHN BURKE

out after the T-shirt incident.

And that day -- that week was frigid in January, it was about 30 degrees out. And the back of that cell there was no heat. I mean, it felt like it was 25 degrees. And the word I used was inhumane because it was inhumane how cold it was there. So then he was sitting there upset and shirtless and just freezing. I mean, you could see your own breath, that's how cold it was. You know?

But, again, back to -- let me get off track here, back to your original question, yeah, that part is a little reversed, so...

Q. So what would be the proper order?

A. The proper order would be after he -- after he cut down the shirt, the officer that came in and the two guards that came in -- I'm sorry, the first time was one, one officer and then he just was -- said okay. They came in -- because they came in with the purpose knowing to cut down his shirt, so they obviously saw what he was

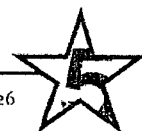


1 JOHN BURKE

2 doing. You know? They were like what are
3 you doing, stop doing stupid shit was exactly
4 what he said. And he cut it down with a
5 knife and just walked out. They walked out.
6 It was only one officer who spoke though.

7 So then a little -- a few minutes
8 after that he said -- I heard like a loud
9 bang and he hit his head against the wall.
10 He told me -- I said what was that. He said
11 I just hit my head against the wall, I know
12 it hurt. He said -- then he said he was wet,
13 so he said he put his head down the toilet.
14 I think he thought they were watching, maybe
15 they would -- if they saw him do this, he
16 would get some medical attention. But in the
17 meantime, he was screaming at the top of his
18 lungs he needed medical -- I can't stress
19 enough how persistent he was in yelling for
20 help, you know, and saying like I'll leave
21 here in a body bag if you don't get me
22 medical attention.

23 In my opinion, once they saw what he
24 did with the shirt, they should have done
25 something then, you know. To leave him like



JOHN BURKE

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2 that in that state, that environment that we
3 were in, how cold it was with no shirt, you
4 know, I just felt it wasn't right, but...

5 Q. If we could just get back on track.

6 A. Yeah, sure, sure.

7 Q. If you can give me the right order,
8 we'll get to the entire story.

9 A. Yeah, okay. Yeah, he was tying his
10 shirt and then -- and then after that was
11 when he hit his head against the wall when
12 they took his shirt away. He hit his head
13 against the wall, put his head down the
14 toilet. And then it was a while after that
15 when I heard him say that's it, and he took
16 his jeans and he hanged himself --

17 Q. Okay.

18 A. -- which, again, the tape will all
19 prove.

20 Q. Now, when you arrived in the cell
21 area, Jack was already in a cell?

22 A. Jack was already in cell one when I
23 was brought back to cell three, yes.

24 Q. You never met him or talked to him
25 before that day?



JOHN BURKE

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A. Never met him in my life, no.

Q. You were put directly into cell three?

A. Yes.

Q. What were you wearing when you were put in the cell?

A. They made me take my sweater off, made me take my shoes off, my belt. So I was wearing jeans, socks and a T-shirt. And, again, it was freezing that day, so I had like -- like a -- there was a Styrofoam yellow blanket they put in there. I was sitting there, just covered up right away because it was just that cold in there. And then I ripped it up and gave him a piece because he had nothing.

Q. So cells one, two and three were in order next to each other --

A. Yeah.

Q. -- on the same wall?

A. If you walked in, one, two, three, four, five, six were all on one side on the right.

Q. So it's a single wall of cells?



1

JOHN BURKE

2

A. Yes.

3

4

Q. Is there some sort of catwalk
outside of the cellblock?

5

A. Yes.

6

7

Q. Now, was there any way you could see
out of the cell area?

8

A. See out of the cell area?

9

Q. Yes.

10

11

A. Yeah, I mean, there were bars, so I
could see out.

12

13

Q. I'm not talking about out of your
cell, but out of the cell area entirely.

14

15

16

17

18

19

20

21

A. Yeah, you could see someone, you
know. To the right I could see the door
coming in through that catwalk area, you
know. The metal door, I could see that. I
could even see like Jack's hands like when
they were around the bars or something like
that. But I could see inside the cell
through the reflection on the covering plate.

22

23

24

Q. Right. But could you see anything
outside of the cell area other than the door
you mentioned?

25

A. I could see the bars from the cells



1

JOHN BURKE

2

next to me, saw the entire catwalk, you know,
3 the entire walkway, again, the door and the
4 camera.

5

Q. Where was the door that you're
6 referring to?

7

A. The door was to our left. So I'm
8 standing here in the cell, there's a catwalk,
9 the door was to the left (indicating).

10

Q. If you're standing facing the bars,
11 the catwalk --

12

A. If I'm standing facing the bars, the
13 door was on the left.

14

Q. If you're standing facing the bars,
15 which way was cell number one?

16

A. Cell number one was to my left.

17

Q. Now, was this door open?

18

A. No.

19

Q. Do you know what was on the other
20 side of the door?

21

A. That's the area where we put -- or
22 where my shoes were and my sweater and my
23 belt. And then when I was walked in there, I
24 saw another pile of clothes which was Jack's
25 stuff because he and I were the only two back



1 JOHN BURKE

2 there.

3 Q. Now, at some point after you were
4 put in the cell, you and Jack started
5 talking?

6 A. Yeah, pretty much immediately, you
7 know.

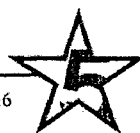
8 Q. Who started the conversation?

9 A. Jack did.

10 Q. Do you recall what he said to start
11 the conversation?

12 A. He said what's up, man. I remember
13 him kind of making a joke. He's like -- he's
14 like I'm sorry you got arrested for whatever
15 you got arrested for, but he's like I'm kind
16 of glad you did though because now I have
17 some company, you know. And then he was --
18 then he started talking about how, you know,
19 they arrested me, they put me here because I
20 have an expired inspection sticker and
21 they're out to get me.

22 And then he kept on going on about
23 how this female officer planted something in
24 his pocket and how they're out to get him
25 and, you know, they have like a, you know --



54
JOHN BURKE

1 they have a mission to get him, you know.
2 They're out to get me, they're out to get me,
3 I wasn't doing anything wrong, I just had an
4 expired inspection sticker, they planted this
5 on me, you know, they're out to get me. Of
6 course, I'm just sitting there. I just get
7 in, so I'm just listening at this point. And
8 they chased away his dog, he was upset about
9 that. And, you know, he was just going on
10 about that. And then he started, you know --
11 he started -- he kept on -- he kept on
12 referring -- he repeated himself a lot and he
13 kept on referring, you know -- referring to
14 the fact that he was, you know -- he was
15 doing nothing wrong, he had an expired
16 inspection, why am I sitting in jail for an
17 inspection. He's like I can't go back and do
18 more time. And then he started like yelling
19 for -- I medical attention, I need medical
20 attention. He was yelling.

21 Q. Let's --

22 A. Yeah.

23 Q. We're going to cover all of this.

24 A. That's where the conversation went,
25



1 JOHN BURKE

2 yeah.

3 Q. I just wanted to know how the
4 consideration started.

5 A. Yeah, yeah.

6 Q. Now, were you able to see his face
7 at any point?

8 A. Through the -- through the
9 reflection and then also when I walked in.

10 Q. Now, at any point during your
11 conversation, did he sound like he might have
12 had some alcohol or drugs in his system?

13 A. He didn't sound like that at all.
14 He was very courteous, very polite.

15 Q. How was his mood?

16 A. He was upset. He was, you know,
17 scared, upset. I mean, I found out after the
18 fact that he was on probation and, you know,
19 what was going on. But at certain times
20 during the conversation he broke down crying.
21 And when the first officer walked in when he
22 was yelling and screaming and yelling and
23 screaming and the guy walked in and said
24 what's going on, what are you yelling and
25 screaming about or, you know, what are you



1

JOHN BURKE

2

going on about, you know, he kind of had an attitude towards him, you know.

3

4

He, too, was very polite with the

5

officer. Sir, please, I need medical

6

attention, I need medical attention, I, you

7

know -- please, please help me, you know.

8

And that's when the officer replied well, if

9

we take you to a hospital, we'll just, you

10

know -- we'll just end up bring you back

11

right here.

12

Q. You mentioned that at some point

13

during your conversation he was crying. Was

14

there anything in particular that seemed to

15

cause him to cry?

16

A. He was crying because he -- the two

17

things I remember is, one, because of his

18

dog. He was upset that they chased his dog

19

away, he was very upset about that. And two

20

was because he kept on saying like he can't

21

do any more time, how he just did this time.

22

And then he's like I can't, you know -- tell

23

my father I can't do this time, I can't do

24

it.

25

And then eventually he started



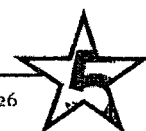
1 JOHN BURKE

2 talking about hanging up, you know, I'm going
3 to hang up. And then he started mentioning
4 his father's phone number and, you know, he
5 asked me to remember that number, please call
6 my father. And I don't want to go too far
7 ahead because I'm answering your questions.

8 Q. When he told you those things, did
9 you believe -- did it seem to you that he was
10 serious about hurting himself?

11 A. You know, at the point I just, you
12 know, I got my own things going right there,
13 so I'm just listening. And at the point I
14 think, you know, alright, this guy's upset,
15 you know, he just got arrested or whatever,
16 you know, he's not happy about it obviously.
17 And, you know, I didn't know, maybe he's
18 serious, maybe he's not, maybe he's just, you
19 know, talking out of frustration. I don't
20 think anything. Just calm down, you know,
21 see what happens, you know. And, again, I
22 was just arrested, so I was like I got my own
23 problems. You know what I mean?

24 Q. Did his hanging himself take you by
25 surprise?



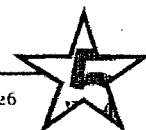
1 JOHN BURKE

2 A. Of course. Because, I mean, he was
3 talking about it and he made it sound like he
4 was going to do it and in the back of my mind
5 I'm thinking -- I'm thinking alright, he
6 won't do it, you know. And, you know, after
7 the T-shirt incident I thought they would get
8 him some care or do something, you know, once
9 he showed signs that he was, you know, making
10 a noose out of a shirt.

11 So it -- when he did do it, of
12 course it was shocking. I mean, you witness
13 something like that, it's not like an
14 everyday thing. So yeah, I was shocked. But
15 again, he was pleading out for help for hours
16 and hours and hours, you know, so what, you
17 know -- it could have been avoided.

18 Q. How long did Jack talk about the
19 circumstances of his arrest for?

20 A. I couldn't give you specifics on
21 that, but he talked about it more in the
22 beginning, I guess, when we first started
23 talking, but he kept on going on about it.
24 And, you know, during the conversation like
25 intermittently he would tell me oh, they



1 JOHN BURKE

2 can't, you know -- how can they have me in
3 jail for this, they're out to get me, the
4 same things over and over again. Then he
5 would say I need medical attention. He would
6 just yell. So he kept on like breaking up
7 the conversation with just yelling, you know.

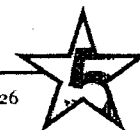
8 Q. Did you ask anyone at any point to
9 get him medical attention?

10 A. I did not, no. I didn't get
11 involved, to be honest with you. When the
12 cop first came and said what are you going on
13 about, and he was pleading his case, you
14 know, and the cop said okay, I'll go get the
15 sergeant, because that's what Jack asked, I
16 figured okay, they'll do whatever they got to
17 do here, you know.

18 Q. How long were you in the cell before
19 an officer came back in to check on what was
20 taking place?

21 MR. GRANDINETTE: Is that
22 question from initially when he
23 first --

24 MS. ZWILLING: Yes, from when
25 he gets into the cell, yes.



1 JOHN BURKE

2 A. When I first got in the cell, I'd
3 say maybe half an hour, close to that.

4 Q. Do you know who the officer was?

5 A. I can describe him physically. But
6 it could be half an hour, an hour. Again,
7 you know, I didn't have a watch or anything.

8 Q. I understand.

9 A. Again, the tape with show it all.
10 But I could describe him, but I don't know
11 his name.

12 Q. Sure, sure. If you could describe
13 him, that would be great.

14 A. He was kind of -- in uniform, kind
15 of heavysset or barrel-chested, short haircut
16 or maybe balding. I can see him from my cell
17 because I can see from the angle when he
18 walked in. He kind of said what are you
19 going on about. He's talking to Jack, and
20 Jack is asking him politely for medical
21 attention, this, that and the other. At one
22 point Jack said let me talk to your sergeant,
23 please. And the officer said okay, I'll get
24 him. And then he left and never came back.

25 Q. Had Jack up to that point told you



1 JOHN BURKE

2 what it was he wanted medical attention for?

3 A. Well, he said that, again, he was
4 roughed up. And he just kept on saying --
5 like he was screaming to them if you don't
6 get me medical attention, I'm going to leave
7 here in a body bag. I mean, he screamed
8 that. Again, I can't emphasize, he screamed
9 that several, several times.

10 Q. Who did he say that to?

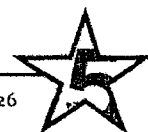
11 A. He was just yelling out for the cops
12 to hear him.

13 Q. When the officer came in --

14 A. Yeah.

15 Q. -- to check that first time, what
16 exactly did Jack say to him in terms of
17 requesting medical care?

18 A. He said I need -- I need medical
19 attention, something to the effect that he
20 was sore and they roughed him up. Again, he
21 wasn't -- when the officer was, he was
22 speaking -- he wasn't yelling and screaming.
23 He was very courteous and, you know,
24 respectful. Please, sir, I need medical
25 attention, I need it, you've got to bring me



1 JOHN BURKE

2 to the hospital, I need medical attention, I
3 need medical attention. And the officer just
4 replied, you know, if we bring you to the
5 hospital, we'll just end up bringing you back
6 here, you know, sarcastically. So then Jack
7 said please, let me speak to your sergeant,
8 you know. And that's when the officer --
9 yeah.

10 Q. Just talking about that
11 conversation, did Jack ask for any
12 psychiatric care at that time?

13 A. No.

14 Q. Did he ever ask for psychiatric
15 care?

16 A. He was just screaming I need medical
17 attention.

18 Q. So he didn't ask for psychiatric
19 care in particular?

20 A. Not that I can recall, no.

21 Q. During that conversation when the
22 officer first came in, did Jack say anything
23 that you interpreted as a threat to harm
24 himself or kill himself?

25 A. Well, he said, you know, I need



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JOHN BURKE

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medical attention, I need medical attention

3

and I'm going to be leaving here in a body

4

bag, so I mean...

5

Q. He said that when the first officer

6

came in?

7

A. I believe he did, but not screaming

8

that time because the cop was right there in

9

front of him. But, again, they heard him

10

saying this because he was screaming it so

11

many times.

12

Q. After that officer left, did you

13

have a further conversation with --

14

A. Yeah, I talked to him.

15

Q. Had he started to calm down at that

16

point?

17

A. He was -- yeah, he was. Like when

18

he talked to me, it was just in a normal

19

tone. He wasn't, you know, screaming or

20

yelling at me. And he apologized to me for

21

yelling. He said I'm sorry for yelling and

22

screaming, making all this mess, but, you

23

know, this isn't right, what's going on with

24

me.

25

And then -- and then he kept on



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JOHN BURKE

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telling me his father's phone number, and he said 839-0676, you know. And he was telling me -- then like five minutes would go by and he'd ask me what's that number. And I'd repeat, da, da, da, ba, ba, ba, you know. So I -- he's like alright, good. He's like please call my dad and tell him that I love him and tell him what happened here, you know.

11

12

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19

And at this time I'm thinking alright, he's just talking, you know, he's full of hot air, you know, he's not really going to do anything. And he kept on going on, what's the number, ba, ba, ba. And then intermittently he would start yelling and screaming again, I need medical attention, I'll be leaving here in a body bag if you don't get me medical attention.

20

21

22

Q. Was it your impression that he was just threatening at that time and would not carry it out?

23

24

25

MR. GRANDINETTE: I'm going to object, but -- as an opinion.
But answer the question.



1 JOHN BURKE

2 A. Yeah, I don't know, to be honest
3 with you. I mean, the fact that he gave me
4 his father's number and all that, it had me
5 concerned, you know. And especially when
6 that T-shirt incident happened, what happened
7 afterwards, I was very concerned then. And
8 then when they saw that on the tape and they
9 came in and they cut it down, I figured okay,
10 they'll do something now.

11 Q. Let's just back up a bit so we can
12 proceed with the chronology.

13 A. Yeah, sure.

14 Q. You mentioned the officer came in,
15 they had a conversation. He said he would
16 get the sergeant and then he left.

17 A. Then he left.

18 Q. How long passed until a police
19 officer returned to the cell area?

20 A. It was after -- it was when he was
21 tying his T-shirt to the bars was the next
22 time the cop came, two cops came in.

23 Q. The officer that came in the first
24 time, was he one of those two officers?

25 A. I believe he was, but I could be



1

JOHN BURKE

2

wrong on that. I mean, obviously the other

3

guy wasn't, but it was either the same kind

4

of guy with the same build. Again, I don't

5

know any names or anything. I just saw them,

6

they come in, they say you're doing stupid

7

stuff, cut the S, and then cut down the

8

shirt. And, again, as they were they -- he

9

was still pleading his case to get medical

10

attention.

11

Q. What was he saying at that time?

12

A. He was like I need to go to the

13

hospital, I need to get medical attention, I

14

need to, you know -- I need go to the

15

hospital, I need medical attention, please,

16

sir, please, officers, please, you know, let

17

me talk to your sergeant. And they basically

18

were in and out very quickly. They just cut

19

the shirt down, yeah, whatever, and they

20

walked out. So they didn't really engage in

21

conversation with him that second time.

22

Q. What did he do or say after they cut

23

the shirt down and left?

24

A. Well, they left and then it was

25

after that that he was still screaming and



1

JOHN BURKE

2

yelling, still making sure I knew his

3

father's number. And then he started to

4

apologize to me -- well, then he -- I heard a

5

loud thump and he hit his head against the

6

wall.

7

And then I heard like water and then

8

he's like oh, man, I'm all wet. And, you

9

know, again, he's freezing. By this time

10

he's shirtless left in the cell, and I can't

11

stress enough how cold it was back there. It

12

was inhumane cold back there. There was no

13

heat. And he said oh, I dumped my head in

14

the toilet, you know.

15

So I think he was trying to get

16

attention, you know, seeing they saw him on

17

the camera with his shirt, maybe they'll see

18

him doing this trying to hurt himself and,

19

you know, doing this and they'll come back

20

and they'll finally bring him to the hospital

21

or bring him -- get him the medical attention

22

that he wanted.

23

Q. So after -- I'm sorry. Did you hear

24

him bang his head?

25

A. I just heard a loud -- like a, you



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JOHN BURKE

2

know, like a -- like loud (indicating).

3

4

Q. Were you able to see him banging his head?

5

6

7

8

9

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11

12

13

14

A. I didn't see him, but I could -- you know that thump. And I said what are you doing and he said oh, I just banged my head against the wall, it hurts, man. I said what are you crazy, what are you nuts. And it was hard, too. I mean, he banged his head hard. Then after that, like I heard swirling of water and then he said I'm all wet. I'm like what are you doing. He's like I just put my head in the toilet.

15

16

17

18

19

20

So I think he was just trying to get attention, you know. I think he said -- I think he figured like once they saw him with the shirt they would see him would do this, and, again to repeat myself, that he would get the attention that he wanted.

21

22

23

Q. What do you recall the next thing happening after he told that when he had put his head in the toilet?

24

25

A. He was cold because he was there shirtless. He was shivering. He started



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JOHN BURKE

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talking again about his dog and about his dad. At one point he told me -- he's like listen, please, tell my dad you can have my boat, you know. I guess he had a boat. So he's like, you know, tell my dad I gave you the boat, you can go, you know, you can go fishing, it's a 12-foot boat or whatever, you know.

And he was talking, you know, I was trying to tell hey, calm down, calm down, take it easy, maybe they'll let you go tomorrow, you know, just take it easy. I thought I was going to be getting through to him. And he was cold and he was cold. And I was like hey, man, I think they put the heat on or something like that, just saying that to kind of, you know, get him to -- then he started talking about his dog and he started sobbing again and crying, very upset.

And then it got quiet, you know, for a while. And eventually I heard him say that's it. And then I heard like the ruffling of clothes, and I knew all he had at that point was his jeans. They took his



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JOHN BURKE

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shirt, he had no blanket. And I hear him

3

like tying it up and stuff like that, you

4

know. Him saying that's it were like the

5

last words he said. So then I hear -- if you

6

want me to go on?

7

Q. Please.

8

A. Yeah. Then I hear like a -- tying

9

it up and stuff like that. I figure -- I

10

figure -- I can see the reflection in the

11

mirror and I can figure alright, he's got his

12

jeans, he's doing the same thing with the

13

jeans that he was doing with the shirt. So I

14

figured okay, they'll probably come running

15

in here, you know. So I kind of stayed, you

16

know -- I was like Jack, Jack, you know, but

17

I kind of stayed quiet.

18

The next thing I know I hear like

19

this -- I don't know how to describe this --

20

this like noise against the metal bars. It

21

was like this hollow ringing. And I could

22

see in the mirror and I could see like his

23

back facing the bars because he tied it

24

against the bars. And I heard like gasping

25

for air and stuff like that, shaking, I



1 JOHN BURKE

2 heard, you know, that gasping. I was
3 thinking oh, my God, this guy is really doing
4 this. And I'm screaming Jack, Jack, Jack,
5 you know, like cut this out, what are you
6 kidding me, cut this out. Got no response.

7 And then I still hear the gasping
8 for air and eventually it just went quiet.
9 And I just -- I'm looking at -- I could see
10 what he was doing, and I'm screaming guard,
11 guard, guard. I'm looking at my camera and
12 I'm pointing like to my left saying, you
13 know, this guy just -- is hurting himself. I
14 was hoping that maybe he was just acting or
15 whatever and I was hoping they'd come running
16 in any second since they saw that thing with
17 the T-shirt.

18 I'm like okay, they'll be here any
19 second, they'll save him. And the next thing
20 I know he was hanging there for what seemed
21 like five to ten minutes.

22 Q. How --

23 A. And --

24 Q. I'm sorry.

25 A. Go ahead.



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JOHN BURKE

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Q. How long a time do you estimate passed between when you first heard him tying the jeans to the bars until you heard what sounded like the noises of the hanging?

A. I would say he was very quick about it. Once he made up his mind that was it, you know. He was -- the minute -- once he was done tying those jeans, he did what he had to do. So it wasn't very -- it wasn't delayed, you know. He didn't have the jeans hanging there for a while, for half an hour or 20 minutes. It was like right away.

Q. How long a period of time do you believe passed between when you heard the gasping and when the officers came in?

A. I'd say it was about -- definitely over five minutes because I remember screaming and screaming and screaming guards -- now I'm screaming, guards, guards, you know. And, again, I'm looking at the camera as I'm screaming and I'm like pointing this way, you know, towards Jack's cell which would be towards the left (indicating). And I'm screaming, you know, and I'm pointing and



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JOHN BURKE

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going this guy, you know, and nothing,

3

nothing. It got to the point where I just

4

gave up and I was just standing there just in

5

shock. Like I could hear his bones cracking

6

and stuff, you know.

7

Even before that, you know, he

8

apologized to me. He said, John, listen, I'm

9

going use the bathroom because I know -- he's

10

like I've heard that when people hang

11

themselves they, you know, shit themselves

12

and urinate and lose control of their, you

13

know, facilities. And he's like, you know,

14

I'm going to use the bathroom to try to empty

15

myself out or whatever, you know, before I do

16

this. I'm like come on man, just take it

17

easy, you know, relax, see what happens

18

tomorrow. And then he went ahead and he did

19

it.

20

And, again, he was just hanging

21

there for what seems definitely five to

22

ten minutes. It was an eternity, as you can

23

imagine. And then I'm screaming and yelling.

24

I eventually just gave up because no one was

25

coming. You'll see on the recording, you



1 JOHN BURKE

2 know, how it all went down.

3 And then finally I hear boots
4 running and, you know, boots running. I can
5 tell, okay, finally they saw what's going on.
6 Now -- I'm like what's the point now, you
7 know, I'm thinking to myself. And before
8 they opened the door -- because there's no
9 window on the door. It's a steel door.
10 Before they opened the door I heard one cop
11 say to the other you have a knife, and they
12 were coming -- they knew what they were
13 walking in on, you know.

14 They weren't just coming to do some
15 random check. They obviously finally looked
16 at the camera, saw this guy hanging there and
17 they hauled ass down the hallway, you know,
18 down to get into the area, you know. So they
19 come bursting in and open up the cell and cut
20 him down. And I hear one say to the other
21 check for a pulse. And then I hear no pulse,
22 he's dead.

23 Q. Were you ever able to observe any
24 physical injuries on Jack?

25 A. That I was not able to do, no, just



1

JOHN BURKE

2

his -- telling me that he was roughed up and

3

that he was sore and he was roughed up, he

4

was mistreated and then, again, him banging

5

his head against the wall and him putting his

6

head down the toilet, which he did. And,

7

again, I sound like a broken record, but the

8

tape will reveal that.

9

Q. I'm just asking if you personally

10

saw physical injuries on him.

11

A. But I -- no, I did not. Personally

12

I did not, you know. I mean, I saw him

13

hanging there.

14

Q. Right. I just want to know if you

15

saw bruises or cuts or bumps.

16

A. No, I wasn't in a position to see

17

that, no.

18

Q. What were you able to see the

19

officers do after they came in?

20

A. Well, they came in -- again, I'm

21

standing there in shock. So, you know, they

22

came in and they opened up the cell and --

23

Q. How many came in?

24

A. Two.

25

Q. Had you seen those officers before?



JOHN BURKE

A. You know, this was -- I would say this was about 5:00 or so, so I mean, it was -- it might have been a different shift. And again, you got to understand, I'm in a state of shock right now, so I'm kind of -- don't really -- it could have been one of the same guys who came in earlier, but I can't be 100 percent sure about that.

Q. Okay.

A. But the two came in and then eventually everybody came in, and one plain clothes officer was -- I don't know if he was off duty or just got off duty. He was standing like outside my cell just like looking in shock. And then eventually they got me, and as I walked out, they had like a sheet above, you know -- above the cell so I couldn't see Jack's body or anything.

Q. How long after the officers entered were you taken out of the area?

A. I'd say about five minutes. At first I don't think they even really paid attention to me, you know. They were too busy doing what they were doing with him.



1 JOHN BURKE

2 Q. What exactly were they doing with
3 him?

4 A. Well, I mean, they were checking his
5 pulse and they were shocked that this
6 happened. And there was no -- there was no
7 pulse and I just heard no pulse. And they
8 were just quiet basically.

9 Q. Was anyone trying to render first
10 aid at that time?

11 A. No, I didn't -- I don't believe so,
12 because when I was walked out a few minutes
13 later, they had a sheet covered up in the
14 front of the cell so I couldn't see him. But
15 I didn't hear any first aid or CPR. It was
16 just there was no pulse. They didn't try to
17 render first aid.

18 Q. Where were you taken initially when
19 you were taken out of that area?

20 A. They brought me to what I believe
21 was the women's holding cell area which was
22 basically like across the hall, you know,
23 outside that door.

24 Q. On the other side of the door?

25 A. Yeah.



1 JOHN BURKE

2 Q. So you couldn't see --

3 A. No, I couldn't see, yeah.

4 Q. Could you hear anything?

5 A. Just, you know, like shit or, you
6 know, damn it. You know what I mean? That
7 kind of deal, you know. I think the cops
8 were in shock, too. Like they couldn't
9 believe he was actually -- that he actually
10 did this. You know? So that was it.

11 And then I was placed over in that
12 cell. I couldn't tell you how long I was
13 there because, again, I'm just numb at what I
14 just saw. And the next thing I know I was
15 being questioned by two homicide detectives.

16 Q. Are those the detectives --

17 A. The detectives I gave the statement
18 to, yes.

19 Q. Did you see anyone remove Jack from
20 the precinct?

21 A. No, I did not see that.

22 Q. Did you see --

23 A. I couldn't see from -- even from
24 where I was in the cell, I couldn't see from
25 that --



JOHN BURKE

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Q. I take it there were no windows or anything in there?

A. No, no. So I don't know, you know. Obviously the detectives came and were taking photos or whatever they had to do or whatever protocol is.

Q. You did not see that, did you?

A. I didn't see that. They just came and they checked out the scene and then they came to talk to me.

Q. Did you remain -- you were transferred to another precinct?

A. I was transferred to another precinct. I couldn't tell you which one it was. So obviously I guess they wanted -- after I gave my statement, they put me back in the cell or whatever. Not too long after that, the original Detective Forestill who brought me there came back, you know, and that's when he had me sign my confession. And then basically he then drove me to another precinct, but I couldn't tell you which one it was, and I spent the night there.



JOHN BURKE

1
2 Q. Did you ask to be taken out of that
3 precinct?

4 A. I didn't ask to be taken, no. They
5 just -- I guess they thought this was good to
6 have me taken out of there.

7 Q. Did you object to being taken?

8 A. No, I didn't say anything.

9 Q. Would it be fair to say you wanted
10 to get out of there?

11 A. Again, at that point I was numb, so
12 I -- it didn't really matter different. I
13 knew what happened, he was dead, so, you
14 know. I guess they thought it best just to
15 transfer me to another -- I guess they were
16 doing their crime scene that entire night
17 anyway, so I'm sure it was a probably a few
18 hours before they even removed the body, you
19 know, or however that works.

20 Q. Other than the meeting you had with
21 Detective Lane and the ADA last week, have
22 you spoken with anyone from the police
23 department about this matter?

24 A. Between when I was interviewed that
25 evening by the detectives and then I was



81
JOHN BURKE

1
2 transferred to the other precinct, the
3 following morning I was in Riverhead, then
4 Yaphank, no one questioned me, any -- nobody
5 questioned me about this until when I got
6 out. I called Jack's father the day I got
7 out, told him what had happened, because I
8 went online and I saw how they just reported
9 that he hung himself, there was no signs of
10 trouble or no warning signs, and I was
11 angered by that. I said how could they do
12 this?

13 So I called -- I was going to call
14 his dad regardless just because I promised
15 his son I would call him, and just to do the
16 right thing I called his dad. I said this is
17 what really happened, because I remembered
18 that number, you know. I didn't want to call
19 while I was locked up.

20 So I had told him what had happened
21 and the reports in the news were false. And
22 I said you do with this information as you
23 will, here's my name, here's my number, you
24 know. If you're going take action I will be
25 there to support you because your son seemed



JOHN BURKE

like a nice guy, I got to know him for a couple hours. And I just felt like what happened wasn't right. You know?

Q. You mentioned that you saw false reports in the news. Where were these false reports?

A. I saw them on the Internet. I went to Google because I figured something like this would be reported, and I typed in -- I think I typed in like 7th Precinct suicide, Suffolk County and I -- sure enough, I got results.

Q. Were these articles on Newsday or some other --

A. I think one of them might have been. Yeah, I think one of them was Newsday, and I couldn't recall the other ones, but the -- I think they might have been -- they could have been all Newsday, but basically each one basically said that he gave no signs of suicide and he gave no warning signs and, you know, everything was calm and smooth.

I think -- one thing I read, Detective Fitzpatrick (phonetic) I think it



JOHN BURKE

1
2 might have been or Cop Fitzpatrick even said
3 like oh, yeah, he was fine, he was calm,
4 there was no problem, you know, there was no
5 signs of this at all, you know. And when I
6 read that I was like, you know, that's
7 ridiculous, that's not the case. You know,
8 at that time I had no idea what the parents
9 knew or what his father knew or whatever, I
10 just picked up the phone and I called, you
11 know. For two months I sat on that phone
12 call, you know, because I didn't want to make
13 that call while I was, you know, locked up.

14 And I called his father and told
15 him, you know, listen, this is what happened,
16 your son was yelling for help for hours and
17 demonstrating signs that he was going to hurt
18 himself, you know. And I told his father
19 what happened on the phone and I just said do
20 with this as you must, you know, as you want
21 to, I'm just letting you know. And then he,
22 you know, took some legal action which I
23 don't blame him.

24 MS. ZWILLING: Mr. Grandinette,
25 has anyone -- have you been in touch



1 JOHN BURKE
2 with anyone from Internal Affairs
3 about this?

4 MR. GRANDINETTE: No.

5 MS. ZWILLING: Have they asked
6 for interviews or anything like that?

7 MR. GRANDINETTE: Is this off
8 the record?

9 MS. ZWILLING: We can have it
10 off the record, sure.

11 (Whereupon, a discussion was held
12 off the record.)

13 MS. ZWILLING: Thank you for
14 coming in. I have no further
15 questions.

16 THE WITNESS: Thank you.

17 (Time noted: 4:23 p.m.)
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A C K N O W L E D G M E N T

3

4 STATE OF NEW YORK)

: SS

5 COUNTY OF SUFFOLK)

6

7

I, JOHN BURKE, hereby certify that I

8

have read the transcript of my testimony taken

9

under oath on August 21, 2013; that the

10

transcript is a true, complete and correct

11

record of what was asked, answered and said

12

during my testimony under oath, and that the

13

answers on the record as given by me are true

14

and correct.

15

16

17

JOHN BURKE

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19

Subscribed and sworn to

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before me, this day

21

of , 2013.

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NOTARY PUBLIC

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John Burke	Arlene Zwilling	3

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C E R T I F I C A T E

STATE OF NEW YORK)
: ss
COUNTY OF SUFFOLK)

I, NICOLE LIMONCELLI, a Notary Public
within and for the State of New York, do
hereby certify:

THAT JOHN BURKE, the witness whose
testimony is hereinbefore set forth, was duly
sworn by me; and

THAT the within transcript is a true
record of the testimony given by said witness.

I further certify that I am not
related, either by blood or marriage, to any
of the parties in this action; and

THAT I am in no way interested in the
outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this day of , 2013.

Nicole Limoncelli

NICOLE LIMONCELLI



* E R R A T A *

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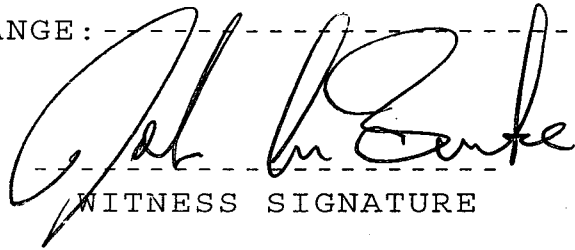
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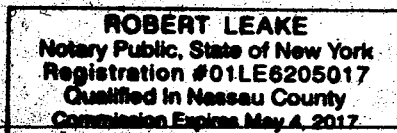

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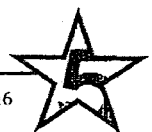
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EXHIBIT H

In the matter of the ESTATE OF JACK FRANQUI IV AND
SIMON NICHOLAS AND ANNE EARLE

AFFIDAVIT

-against-

THE COUNTY OF SUFFOLK, SUFFOLK COUNTY POLICE
DEPARTMENT, POLICE OFFICERS JOHN AND JANE DOES 1-10

John Burke, being duly sworn deposes and says under penalty of perjury:

My name is John Burke. On January 23, 2012, I was arrested in Brooklyn N.Y. by Suffolk County detectives and brought back to the Suffolk County's 7th precinct in Shirley N.Y. At that time, I was brought to the rear of the precinct and placed in an area that contained holding cells. That area was in the rear of the precinct down a hallway to the left, after walking through a doorway. As I was being walked to my cell, I observed a man now known to me, as Jack Franqui. Jack was sitting quietly inside cell #1. He was wearing a white t-shirt, blue jeans, and had dark colored hair. Outside his cell I saw a small pile of clothes. I was placed in cell #3. Before entering the cell, I was asked to take off my belt and shoes. I specifically remember how cold it was that day, and especially inside the cell area. There was no heat and you could see your breath as you spoke. A short time after being placed in my cell, Jack began speaking to me. Jack was telling me that he was arrested by a female police officer. Jack informed me that the female officer asked him when he had smoked marijuana last. Jack said, "It was January 9th." The officer's reply to him was, "Good, it will show up in your system." Jack went on to say that he had just gotten out of jail recently, and the police at the time of Jack's arrest were saying that Jack sicked his dog on them. Jack said that was absolute nonsense, "the dog just ran out of his car". Jack was getting more and more upset and also told me the police had "roughed him up and were out to get him". Jack started saying, "I think I'm going to hang up." At that time I didn't really know what that meant. Jack began screaming at the top of his lungs, words to affect that: "I need medical assistance", "I need to go to the hospital". "I need medical attention." Jack was screaming loudly. There was no way the officers outside the doorway did not hear him. I know this because I could hear small bits of conversation that the officers were having right outside the door. I'm not sure of the exact time that had passed, but a substantial time elapsed before a police officer finally came back to the cell area. The officer asked Jack "what he was going on about?" Jack informed the officer that he wanted to go to the hospital, and that he needed medical attention. The officer replied that if Jack went to the hospital, that they are just going to bring Jack back to the precinct--suggesting they were not going to take Jack to the hospital. At that point, Jack asked the officer, "Let me speak to your sergeant." The officer replied, "Ok" but never came back. After a while, once Jack realized that a supervisor was not coming back to see him, he started yelling again words to the effect of: "If you don't get me medical attention, I'm leaving here in a body bag." I cannot be sure of the number of times that Jack yelled for medical

assistance, but it was continuous and obviously the officers were simply ignoring him.

I cannot stress how cold it was in the holding cell area. It was actually inhumane!! I remember being curled up on a bench, shivering, holding on to a small blanket that was like a piece of cardboard issued to me. Jack asked me for a piece of my blanket, which I gave him. You could see your breath in the air.

After some time, once again Jack started yelling at the top of his lungs words to the affect that: "I need medical assistance. I need medical assistance." At one point Jack started to yell "I'm having chest pains". When his cries for help were ignored, Jack again told me, "I'm just going to hang up." At that point, Jack kept asking me to memorize his dad's phone number over and over and over again. Jack started saying, "When I do this, tell my dad I didn't have drugs on me. I never let my dog out after the police. Please tell my dad Simon knows the real story about what had happened today, and again asked me to repeat his fathers phone number back to him. Which, I did. Jack said, "Tell my father I can't go back to jail." At that point, Jack again started yelling again words to the affect of: "Guard, I need to go to the hospital. I need medical assistance or I am gonna leave here in a body bag."

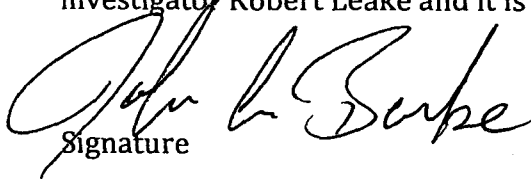
I know for a fact there where cameras inside the holding area. The cameras were positioned above the cells and were visible to see. They were facing directly towards the individual cells. At that point, Jack stuck his head in the toilet and started banging his head on the wall and screaming, "I need medical assistance." Then Jack proceeded to tie his t-shirt onto the bars of the cell like a noose. I could see what Jack was doing from one of the camera lens that was facing his cell. At that point, two officers came finally came into the cell area and cut Jack's t-shirt off the bars to prevent him from hanging himself. Approximately one hour went by between the time the first officer came back to the cell area, and these officers came back to cut down Jack's tee shirt from the cell. I thought for sure at that point it was clear Jack was having a mental breakdown and Police would take him to a hospital. But the officers just left the room and refused to help him. I could not believe they did nothing and just left him alone blowing off his pleas for help. I can honestly say that anyone with half a brain would have realized this kid was in trouble.

After they left, Jack started crying and saying, "I can't go back to jail, and saying something about being worried about his dog." Jack again asked me to repeat back his father's phone number. Jack started telling me, "I could have his boat and to please tell his dad that he loved him, and not to let him die in vain." Jack then started to explain to me that when people hang themselves their bowels empty and started to apologize in advance because he was going to hang himself and it was going to smell. I started to get nervous and told Jack to calm down and please stop talking like that. At that point it got quiet, and I thought Jack might have calmed down or be laying down in his cell, or possibly even fell asleep. A short time later, I heard some rustling. I realized later Jack was tying his pants to the cell. I started to hear a gurgling sound, and ran over to the front of my cell and look to my left and saw

Jack's body hanging and twitching. I started to yell, "Jack! Jack!" All I could hear was gurgling and then quiet. I started screaming at the top of my lungs, "Guard! "Guard!" I was frantically pointing at the camera towards Jack's cell. I would estimate five to maybe ten minutes had gone by before anybody even came back to the cell area. I know for a fact, before the officers entered the cell area, they must have seen Jack on the cameras. The reason I say this, is before the officers entered the cell area, I heard one of the officers saying, "Do you have a knife?" Once the officers entered the cell area, I heard one officer say, "Check for a pulse." And I heard another one say, "There is none." At that point, I was moved across the hallway to another area of cells that I believe was utilized for females. Eventually detectives came and asked me about the incident. I described in detail, about how Jack was screaming on and off for four to four and a half hours for medical attention and was ignored. The detectives wrote a statement for me and asked me to sign it. At the time I was distraught and I don't recall what they wrote in the statement. I still can't believe that after the first time Jack tied his shirt to the bars and repeatedly asked to go to a hospital over and over again or he would be leaving in a body bag, that officers just ignored him. He was screaming for hours repeatedly at the top of his lungs. I can't believe that the police allowed this to happen.

After I was released from jail I saw an article in the newspaper. I read that nothing out of the ordinary transpired after Jack's arrest, , that he was calm during the arrest process, and before Jack hung himself, there were no indications that he was suicidal. I was upset by the article and reached out to Jack's father. I did this because I did make a promise to Jack that I would call his dad and wanted to keep that promise. I felt it was the right thing to do. What was reported in the paper appeared to be the exact opposite of the true facts. I was concerned the police going to lied about what happened after I read the article.

I am certain that had someone taken the time to listen and help Jack he would certainly be alive today. The fact is that many police officers heard Jack's legitimate cries for help and simply ignored him for hours. What happened that day is the exact opposite of what you would expect of police behavior under the existing circumstances. It was shocking that nobody helped this poor kid and it appeared to be intentionally done to make him suffer. I am giving this statement to Private investigator Robert Leake and it is the truth.


Signature

John Burke, Witness

SWORN BEFORE ME ON the 3RD DAY of JULY 2013

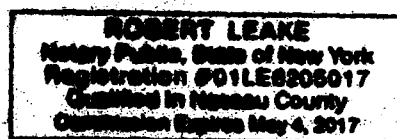




EXHIBIT I

I John Burke being duly sworn deposes and says I am 35 years old. I was born on 12/1/77.

I live at 89 Porter Ave, Brooklyn.

Today I arrived at the 7th pct. at 2:10 p.m. The detectives put me in a cell some time before 3:00 p.m. I know I was in cell #3. There was a guy in the first cell, and there was an empty cell between us.

I was talking to the guy about how cold it was. He told me his name was Jack. I threw him a piece of my yellow ~~jacket~~ blanket.

The guy said he just got out of jail a couple of days ago and he was arrested for some DWI charge. He was saying that the cops knew him and they were out to get him. He said that he couldn't do any more time.

The guy was yelling that he needed medical assistance. He was telling me that he was going to hang himself.

A guard came in and talked to him. The guy told the guard that he needed medical assistance. He told the guard that he wanted to speak to a boss. The guard left but he didn't come back.

The guy was saying that he was going to hang himself. He was telling me to call his father and made me memorize the phone number, 839-0676. (cont. page 2)

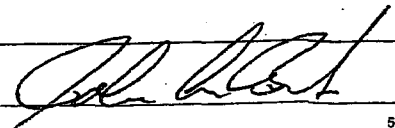
SWORN TO BEFORE ME

JAN. 23 2013

PDCS-7129

ALFRED M. GIGGOTTI
NOTARY PUBLIC, STATE OF N.Y.
NO. 016357421, EXPIRES 3/13/15

TERM EXPIRES 3/13/15



SWORN STATEMENT OF JOHN BUNKE

2 of 2

(cont. from page 1) I could see the guy's reflection in the black camera cover. He was tying his shirt to the bars. 2 guards came in and took the guy's shirt and the blanket.

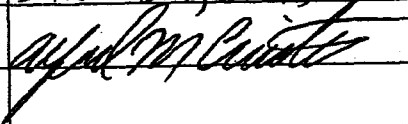
About 20 minutes or half hour later I heard the guy said, "that's it," I heard him taking off his pants and I could hear him tying them off. I heard what sounded like his body hitting the bars. I heard him gasping for air. I started yelling for the guards. The guards came about 5 or 10 minutes later.

After before the guy said, "that's it," I heard a loud bang. The guy said he hit his head against the wall. He said that it hurt.

I have read the above statement consisting of two pages taken by Det. Cicchetto here in the 7th precinct and I swear it is all true.

SWORN TO BEFORE ME

JAN. 23, 2013



ALFRED M. CICCOTTO
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01C15074751, SUFFOLK COUNTY
TERM EXPIRES 3/24/15

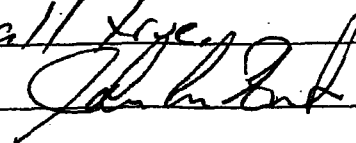


EXHIBIT J

History	search <u>Search</u>
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BEACON RECORD
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board on

and upper

ryan girl

ryan girl

board on

Rocky Point man who hung himself had previous run-in with cops

By Erika Karp
write the author

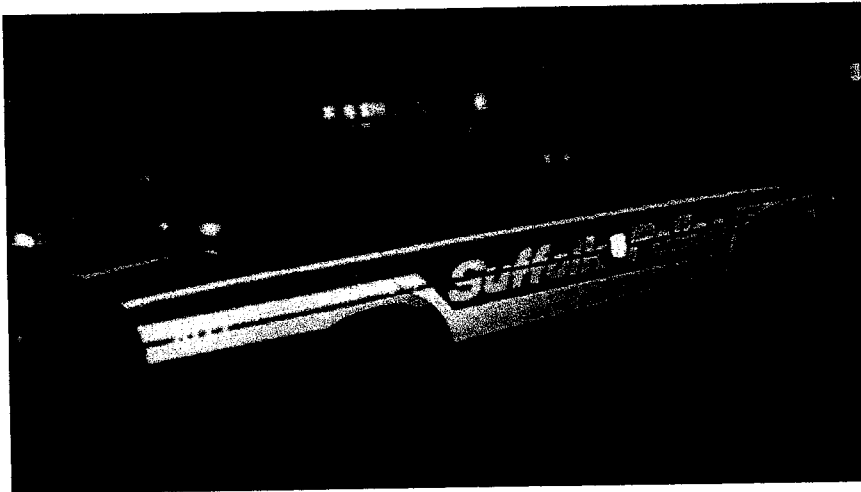
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Village Beacon Record

January 31, 2013 | 09:41 AM

A Rocky Point man who gave police no indication he was a threat to himself committed suicide while in custody at the Seventh Precinct in Shirley on Wednesday, Jan. 23, Suffolk County police report.

Officers say they arrested Jack Franqui, 27, shortly before noon that day and charged him with driving while impaired by drugs, resisting arrest and obstruction of governmental administration. Franqui was then transported to the precinct, where he was to be held overnight for arraignment, they report.

Lt. Jack Fitzpatrick, an officer with the Suffolk County Police Homicide Squad who is investigating the case, said Franqui was held there for about five hours when, at approximately 7 pm, officers discovered Franqui had hung himself in his cell. Franqui was pronounced dead at the scene. Fitzpatrick declined to say what Franqui used to hang himself, but said it was not something already found in the cell.

He added that officers had seen Franqui alive a short time before the incident, but declined to say exactly how much time had passed. When asked if Franqui had given police indication he may attempt to harm himself, Fitzpatrick said, "None at all."

Fitzpatrick added that in December 2011, Franqui was arrested after police who were called found Franqui armed with a handgun and "possibly suicidal." Fitzpatrick alleges that in an altercation with police, Franqui fired the gun.

According to court records, Franqui pleaded guilty to charges including intent to cause physical injury to an officer, menacing a police officer, resisting arrest, criminal possession of a weapon in the second degree, among others. Franqui was sentenced to six months in prison and probation for five years. Earlier this month, Franqui was ruled to have violated his probation.

Fitzpatrick said detectives are still investigating Franqui's death.

Franqui's father, also named Jack Franqui, declined to speak in a telephone call. A woman who answered the phone at the Franquis' home said, "He doesn't have

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Newsday<http://www.newsday.com/long-island/suffolk/rocky-point-man-hangs-himself-in-police-custody-1.4503600>

Rocky Point man hangs himself in police custody

January 24, 2013 by TANIA LOPEZ / tania.lopez@newsday.com

A Rocky Point man who killed himself while in police custody Wednesday after being arrested on charges of driving under the influence of drugs showed no signs of being suicidal when he was processed, police said Thursday.

Jack Franqui, 26, was found dead at 7 p.m. in a Seventh Precinct holding cell, where he hanged himself, just over seven hours after his arrest on impaired driving while on drugs, resisting arrest and obstruction, police said.

Lt. Jack Fitzpatrick, commander of the Suffolk police homicide squad, which is investigating the death, said Franqui had been questioned about his mental status and any medications he took and filled out forms used to assess detainees.

"There was no indication he was suicidal," Fitzpatrick said.

However, Fitzpatrick said, about a year ago, Franqui was involved in a call in which he appeared to be "suicidal." Police responded to a report that Franqui had a shotgun, which he did not, but when police arrived, Franqui retrieved a handgun and wrestled with officers before a shot was fired. No one was injured. Fitzpatrick had no additional details.

At the time of his death, Franqui was on probation after pleading guilty last month to a weapons charge.

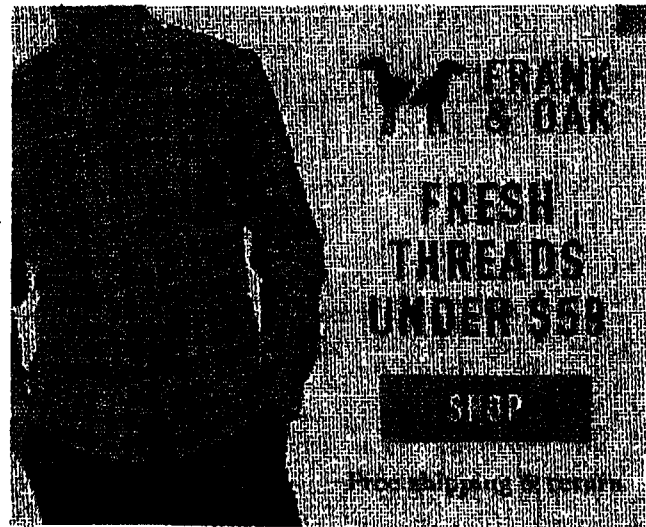
Franqui's father, also named Jack Franqui, reached by phone last night, was too distraught to talk and declined to comment.

The state Commission of Correction, which investigates all deaths in police custody, has launched a probe, a spokesman said.

Franqui's arrest on Wednesday came after police received a 911 call of a suspicious vehicle parked in the vicinity of Cordwood Path in Shoreham, Fitzpatrick said. An officer responding to the call told investigators she spotted Franqui sitting alone in the vehicle and smelled the odor of marijuana coming from the car.

She asked Franqui to step out of the vehicle, he said, but instead Franqui opened the driver's side of the Cadillac, revealing a dog. "He has a Doberman in the car and he said 'get her.' She's so alert, she slams the door back closed," Fitzpatrick said.

The officer called for backup and Franqui was arrested after a scuffle, he said.



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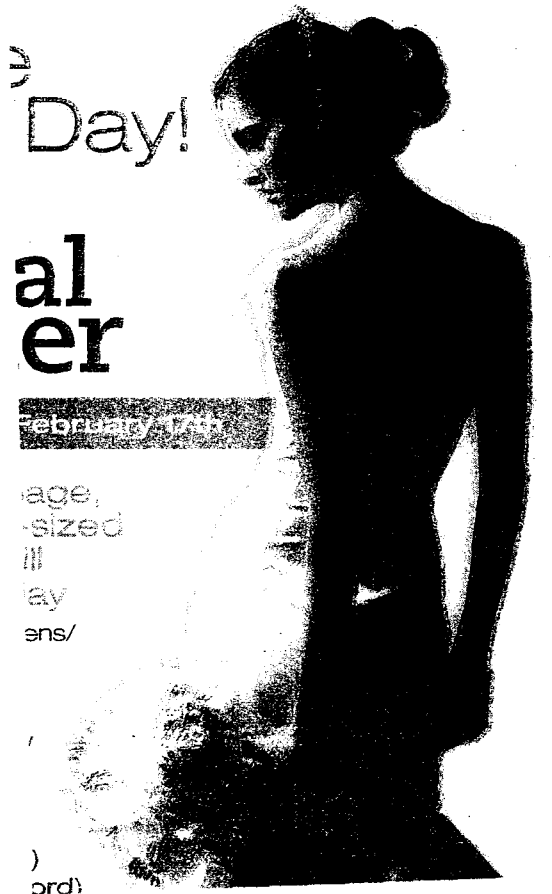
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een, where you are and where you want to go.

or to connect your past experience to your future
ign a degree program and identify work and life
i you college credit so you can finish sooner.

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OUR TOWNS

Suicide in a jail cell

BY TANIA LOPEZ
tania.lopez@newsday.com

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The officer called for backup and Franqui was arrested after a scuffle, he said.

CRIME & COURTS

ROCKVILLE CENTRE

Pedestrian, 84, fatally struck

An 84-year-old man walking across Merrick Road in Rockville Centre in a crosswalk yesterday was struck and killed by a tractor trailer, Nassau County police said.

Police said the victim, Juan Galdos of Rockville Centre, was pronounced dead at the scene.

The accident occurred about 11:45 a.m., and police closed Merrick Road in both directions between Cumberland Street and North Long Beach Road for nearly four hours to investigate.

Detectives said the victim was crossing Merrick Road from north to south in a marked crosswalk at Oceanside Road when he was hit by a 2003 Peterbilt tractor trailer driven by a 59-year-old man.

The tractor trailer was eastbound in the right lane of Merrick Road at Oceanside Road when it struck Galdos, police said. Detectives said there appears to be no criminality.

— GARY DYNISKI

KINGS PARK

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Responding to an unrelated call in the Kings Plaza parking lot, 66 Indian Head Rd., Fourth Precinct Officer Thomas Spica spotted the man at 12:06 a.m., passed out in the driver's seat of a vehicle with its engine running, police said. The man had a hypodermic needle in his lap, police said.


Officers Douglas Nassisi, Patricia Davis and Kenneth Kaufold also responded, and a dose of intranasal Narcan was administered, as well as rescue breathing, police said.

Another dose of Narcan was administered when Kings Park Rescue members arrived and took the man to St. Catherine of Siena Medical Center in Smithtown. There, a third dose was administered.



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Editor [Rich Arleo](#) rich.arleo@patch.com



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Police & Fire

Cops: Man Who Hanged Himself in Custody Didn't Seem Suicidal

Investigation remains ongoing into Wednesday evening suicide at Seventh Precinct.

By [Joseph Pinciare](#) [Email the author](#) January 25, 2013

Recommend 5

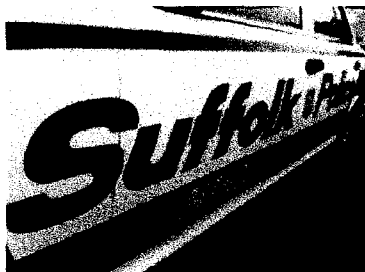
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Police said on Friday that a **Rocky Point man who hanged himself in police custody** less than 48 hours earlier had not shown prior signs of suicide during his arrest and processing, but on the contrary, appeared at ease with police officers after previously resisting arrest in a Shoreham neighborhood.

"After the altercation, the officers' entire interaction with him was calm," said Lt. Jack Fitzpatrick commander of the Suffolk Police homicide squad, which is conducting an investigation into the death.

Fitzpatrick noted that the Rocky Point man, 27-year-old Jack Franqui, had previous run-ins with the law.

In December of 2011, Suffolk Police were called to Franqui's home at the time after reports of a man waving a shotgun outside, Fitzpatrick said. Upon police arrival, Franqui did not have a shotgun, but later reportedly pulled a handgun on police, resulting in a wrestling match that ended up with a gunshot firing into the ceiling of the home.

He was later evaluated at Mather Hospital, and at the time of Wednesday's incident, did not have a license to drive.

According to Fitzpatrick, on Wednesday, police received a report of a suspicious vehicle on Cordwood Path in Shoreham, an area that has seen a few burglaries recently.

The responding officer smelled marijuana in the car upon approaching and after asking Franqui to get out, he reportedly told a Doberman Pinscher in the car to 'get her,' referring to the female cop.

She slammed the door before the dog could get out, Fitzpatrick said, and after a brief scuffle, Franqui was brought to Seventh Precinct headquarters in Shirley, where he was later lodged in a cell alone.

While video cameras monitor holding cells, Fitzpatrick was unsure how a prisoner was able to have the time to fashion a noose and hang himself.

"That's part of the investigation," he said.

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EXHIBIT K

Surrogate's Court of the County of Suffolk

On the Date Written Below LETTERS OF ADMINISTRATION were granted by the Surrogate's Court of Suffolk County, New York as follows:

File #: 2013-3311

Name of Decedent: Jack Franqui IV
Domicile: County of Suffolk

Date of Death: 01-23-2013

Type of Letters Issued: LETTERS OF ADMINISTRATION

Fiduciary Appointed: Joaquin Franqui

Limitations:

That as to the cause of action for wrongful death set forth in the petition, the authority of the fiduciary is limited and restricted to prosecution and settlement thereof, and the defense of any claim or actions arising therefrom. Except as provided under EPTL 5-4.6, the fiduciary as well as any attorneys who represents them, are restricted and prohibited from receiving or distributing any money resulting therefrom, without further order of this court.

THESE LETTERS, granted pursuant to a decree entered by the court, authorize and empower the above-named fiduciary or fiduciaries to perform all acts requisite to the proper administration and disposition of the estate/trust of the Decedent in accordance with the decree and the laws of New York State, subject to the limitations and restrictions, if any, as set forth above.

Dated: September 9, 2013

IN TESTIMONY WHEREOF, the seal of the Suffolk County Surrogate's Court has been affixed.

WITNESS, Hon John M Czygier Jr, Judge of the Suffolk County Surrogate's Court



Michael Cipollino, Chief Clerk

These Letters are Not Valid Without the Raised Seal of the Suffolk County Surrogate's Court

Certificate# 78751

**Surrogate's Court of the State of New York
Suffolk County**

File#: 2013-3311

Certificate of Appointment of Administrator

IT IS HEREBY CERTIFIED that Letters for the Estate of the Decedent named below have been granted by this Court, and such Letters are unrevoked, are valid and are in full force as of this date.

Name of Decedent: Jack Franqui IV

Date of Death: January 23, 2013

Domicile: County of Suffolk

Fiduciary Appointed: Joaquin Franqui IV

Letters Issued: LETTERS OF ADMINISTRATION

Letters Issued On: September 9, 2013

Limitations:

That as to the cause of action for wrongful death set forth in the petition, the authority of the fiduciary is limited and restricted to prosecution and settlement thereof, and the defense of any claim or actions arising therefrom. Except as provided under EPTL 5-4.6, the fiduciary as well as any attorneys who represents them, are restricted and prohibited from receiving or distributing any money resulting therefrom, without further order of this court.

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and such Letters are unrevoked and in full force as of this date.

Dated: September 9, 2013
Riverhead, New York

IN TESTIMONY WHEREOF, the seal of the Suffolk
County Surrogate's Court has been affixed.

WITNESS, Honorable John M Czygier Jr, Judge of the
Suffolk County Surrogate's Court.

Michael Cipollino

Michael Cipollino, Chief Clerk
Suffolk County Surrogate's Court

This Certificate is Not Valid Without the Raised Seal of the Suffolk County Surrogate's Court

EXHIBIT L



FUNERAL HOME
551 Route 25A Miller Place, NY 11764
631-744-9700
The Branch Funeral Home
is owned and operated by
The Vigilante Family

Number 13003M+3

Date: January 24, 2013

Name of Deceased Jack Franqui, IV

Date of Death January 23, 2013 Place of Death Shirley

ITEMIZATION OF FUNERAL SERVICES
AND MERCHANDISE SELECTED

The following are the charges for the services, merchandise and lively you have selected. You will not be charged for any item you do not choose unless it is necessary because of other selections you have made. Any such charges are explained below.

I. FUNERAL HOME CHARGES

(Indicate N/A for items of service and/or merchandise that are not provided.)

A. Alternative Services

1. Direct Cremation

2. Direct Burial

B. Transfer of remains to funeral establishment including personnel, equipment and vehicle

C. Preparation of Remains

1. Embalming (including use of preparation room)

If you select a funeral for which this firm requires embalming, such as a funeral with viewing, you may have to pay for embalming. You do not have to pay for embalming you do not approve if you select arrangements such as direct cremation or direct burial. If we charge for embalming, we will explain why below.

2. Other Preparation (including use of preparation room but excluding embalming)

a. Topical Disinfection

b. Custodial Care

c. Dressing/Caskeing

d. Cosmetology

e. Restoration

D. Arrangements

Basic arrangements: including funeral director, other staff, equipment and facilities to respond to initial request for service, the arrangement conference, securing of necessary authorizations and coordination of service plans with parties involved in the final disposition of the deceased.

E. Supervision (funeral director and staff)

1. Supervision for visitation

2. Supervision for funeral service

3. Supervision for graveside service

4. _____

F. Use of the facilities

1. Use of the facilities for visitation

2. Use of facilities for funeral service

3. _____

G. Livery

1. a. Hearse or

b. Alternative vehicle

(Specify Type _____)

2. Flower vehicle

3. Limousine(s)

(Specify number: ____ @ ____ /limousine)

4. Passenger car(s)
(Specify number: ____ @ ____ /limousine)

5. _____

H. Merchandise

1. Casket or alternative container

a. Supplier: Milso

b. Model name or number: Duvalis Rental

c. Material: Oak

d. Interior: Crepe

2. Outer Interment Receptacle

a. Supplier:

b. Model name or number:

c. Material:

I. Additional Merchandise & Services Selected

(Describe and show price)

1. Memorial Cards

2. Acknowledgement Cards

3. Memorial Package

4. Urn

5. Flowers

6. Video Tribute

7. Clothing

8. _____

9. _____

10. _____

Limited Services
1. Forwarding remains to

2. Receiving remains from

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

II. CASH ADVANCES

These are estimated charges for items to be paid to others. We will charge you no more for these items than is actually paid the third parties. (Describe and show estimated charges.)

1. Cemetery/Crematory Charges

2. Clergy Honoraria

3. Death Certificate Transcripts

4. Gratuities

5. ME Cremation Clearance

6. Monument Permit Fee

7. Monument Foundation

8. _____

9. _____

10. _____

11. _____

12. _____

ESTIMATED TOTAL OF CASH ADVANCES

III. SUMMARY OF CHARGES

1. Funeral Home Charges

2. Cash Advances

IV. EXPLANATION OF CHARGES

Explain charges for embalming and for any items that are not required by law but may be necessary because of cemetery requirements, crematory requirements or other selections made.

Signature of Licensed Funeral Director
John H. Vigilante
Printed or Typed Name of Funeral Director

ACKNOWLEDGEMENT OF RECEIPT

I have received this itemization of funeral services and merchandise selected.

Signature

Date

January 24, 2013

PUBLIC NOTICE

The New York State Department of Health is responsible for licensing and regulating New York State funeral directing under Public Health Law.

You may contact the department at:

Bureau of Funeral Directing, New York State Department of Health

Hedley Park, 6th Floor, 433 River Street, Troy, New York 12180

EXCLUSION OF WARRANTY. The only warranties, express or implied, granted in connection with the goods sold with this funeral service are the express written warranties, if any, extended by the manufacturers thereof. No other warranties and no warranties of merchantability or fitness for a particular purpose are extended by the

STATEMENT OF FUNERAL GOODS AND SERVICES SELECTED

INVOICE TO: Joaquin Franqui

83 Magnolia Dr.

Rocky Point, NY 11778

The undersigned hereby authorizes the above funeral establishment or its representatives to obtain custody of the remains of

Jack Franqui, IV

Initial and state your relation to the deceased ☒ father

The undersigned hereby authorizes the above funeral establishment or its representatives to ☒ embalm ☐ not to embalm the remains of Jack Franqui, IV

Initial and state your relation to the deceased ☒ father

"Charges are for those items that are used. If we are required by law to use any items, we will explain the reasons in writing below."

TOTAL FUNERAL CHARGES \$9,788.00

Date January 24, 2013

The foregoing statement has been read by (to) me and I hereby acknowledge receipt of a copy of same and agree to pay the above funeral account and for such additional services and materials as are ordered by me, on or before January 24, 2013. In the event that this account is not paid in accordance with the terms of this agreement, the undersigned hereby agrees to pay any and all costs and attorney's fees incurred in connection with the collection of this account.

Prior to the discussion of these funeral arrangements, I was presented with a copy of this funeral firm's "General Price List" for which I hereby acknowledge receipt, and have had an opportunity to review the firm's Casket Price List and Outer Interment Receptacle Price List.

TERMS: This account becomes due January 24, 2013. If bill remains unpaid beyond January 24, 2013 a late charge of 1.5 % per month (annual rate 18 %) may be added to the unpaid portion of the balance due.

The liability hereby assumed is in addition to the liability imposed by law upon the estate and others, and shall not constitute a release thereof.

Signature

Relation to Deceased father

Signature

Relation to Deceased

By John H. Vigilante

Print Name of Licensed Funeral Director

ADDITIONS OR ALTERATIONS OF SERVICES AND MERCHANDISE SELECTED. The following changes represent items of service and/or merchandise ordered or altered subsequent to the original funeral agreement.

AUTHORIZATION INTIAL

\$ \$2,013.00

\$ \$2,013.00

Total Adjustments to Funeral Charges \$7,775.00

ADJUSTED TOTAL \$0.00

CREDIT \$0.00

BALANCE DUE \$7,775.00